SCHOOL LAWS

AND

COMMON SCHOOL DECISIONS

OF THE

STATE OF ILLINOIS.

PREPARED AND ARRANGED BY
NEWTON BATEMAN, LL. D.

REVISED BY
WILLIAM L. PILLSBURY, A. M.
EIGHT YEARS ASSISTANT OF SUPERINTENDENT OF PUBLIC INSTRUCTION.

LIBRARY OF CONGRESS
COPYRIGHT
DEC 16 1889
29782
WASHINGTON.

LAW DEPARTMENT

URBANA AND AURORA:
PILLSBURY AND FREEMAN.
1889.

LB2529
.I4
1889

Copyright, 1865, by NEWTON BATEMAN.

Copyright, 1866, by NEWTON BATEMAN.

Copyright, 1867, by NEWTON BATEMAN.

Copyright, 1871, by NEWTON BATEMAN.

Copyright, 1887, by PILLSBURY and FREEMAN.

Copyright, 1889, by PILLSBURY and FREEMAN.

Note—EDITION OF 1889. The codification of the School Law by the legislature at the session just closed has made it necessary to revise the Common School Decisions. But while the revision consists chiefly of a rearrangement of the matter in the former edition, much pains has been taken to incorporate the recent decisions of the courts which relate to school affairs, and the value of the book will be found to be greatly enhanced by the citation of a very large number of new cases.

W. L. PILLSBURY.

URBANA, July 1, 1889.

Printed, Stereotyped and Bound by
H. W. ROKKER,
Springfield, Illinois.

PREFACE.

[Edition of 1887.]

During the eight years I was employed in the office of the Superintendent of Public Instruction, I found Dr. Bateman's Common School Decisions an invaluable aid in determining the many school questions referred to the State Department. The book, having been published twenty years ago, had, however, been rendered unsuitable for general use by the many changes which had been made in the law.

In preparing this revision, the matter has been re-arranged and a very large part of it has been re-written.

The Preface to Dr. Bateman's last edition of the Decisions states the scope and aim of the book thus:

"The object of this volume is to furnish to those in any way concerned with our system of common schools, in convenient form and small compass, information and instruction necessary to the proper discharge of their duties.

"The book contains:

"I. The Common School Laws of the State, with all the latest amendments.

"II. The Official Decisions and Instructions of the State Superintendent, and the Decisions of the Supreme Court, in relation to common schools.

"The official decisions are confirmed by copious references to and citations of judicial authorities. To this end the Supreme Court Reports of Illinois and of many other States have been carefully and exhaustively searched. It is hoped that this feature of the work [and the table of cases added] will render it of some value to members of the bar and others, in the management of cases arising under the school laws of the State.

"The decisions embrace a wide range and great variety of subjects. It is believed that questions can hardly arise under our present school laws upon which some light, if not a definite ahswer, will be found in this volume.

"Forms of all School Instruments are added for the convenience of school officers. Both the laws and decisions are very copiously indexed. The aim throughout has been to render the work a plain, practical, and reliable common school manual."

The work of revision has been very carefully done with the same objects in view; and my wish is that school officers and teachers and others interested in questions relating to the school laws and their administration, may find this as useful as were the former editions of the book.

W. L. PILLSBURY.

Springfield, Nov. 1, 1887.

TABLE OF CONTENTS.

PAGE.

EDUCATIONAL PROVISIONS IN CONSTITUTION, AND COMMENTS 9

GENERAL SCHOOL LAW AS AMENDED, WITH DECISIONS..... 12

Article 1. State superintendent of public instruction 12
Article 2. County superintendents..... 20
Article 3. Townships—Trustees of schools..... 43
Article 4. Township treasurer..... 99
Article 5. Board of directors.....120
Article 6. Board of education.....177
Article 7. Teachers.....190
Article 8. Revenue and taxation.....215
Article 9. Bonds.....222
Article 10. County clerk.....229
Article 11. County board.....231
Article 12. School funds.....234
Article 13. School lands.....241
Article 14. Fines and forfeitures.....249
Article 15. Liabilities of school officers.....252
Article 16. Miscellaneous.....258

ADDITIONAL ACTS, WITH DECISIONS:

"Compulsory" education act.....266
Physiology and hygiene taught.....268
Compensation of election judges in certain cases.....269
Members of boards of education appointed.....270

FORMS OF OFFICIAL INSTRUMENTS 272

CALENDAR OF ELECTIONS AND OFFICIAL DUTIES.....278

TABLE OF CASES CITED.....278

INDEX.....283

ADVERTISEMENTS, see front and back of book.

SCHOOL LAWS
AND
OFFICIAL AND JUDICIAL DECISIONS.

CONSTITUTIONAL PROVISIONS WITH REGARD TO EDUCATION.

The state constitutions of 1818 and 1848 made no reference to schools. The constitution of 1870 has the following:

ARTICLE VIII—EDUCATION.

General assembly to provide a system of free schools. SECTION 1. The general assembly shall provide a thorough and efficient system of free schools, whereby all children of this state may receive a good common school education.

Common School Education. This article, while mandatory in its character, is rather a limitation than a grant of power. It commands the general assembly to provide a system of schools, but subject to the two limitations, that the schools shall be "free schools," and that they shall offer the children of the state a "good common school education." The meaning of the term "common school education" has been much discussed. The supreme court holds that a common school is one which "begins with the rudimental elements of an education, whatever else it may embrace, as contradistinguished from academies or universities devoted exclusively to teaching advanced pupils in the classics and in the higher branches of study usually included in the curriculum of the college." The high school is held to be made lawfully a part of the school system. [*Richards* v. *Raymond*, 92 Ill., 612; *Powell* v. *Board of Education*, 97 Ill., 375; *Stuart* v. *School District*, 30 Mich., 69.]

Lands, moneys, and other property donated. § 2. All lands, moneys, or other property, donated, granted or received for school, college, seminary, or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such gifts or grants were made.

Funds held by the State in Trust. The funds referred to are those established out of the several grants and dona-

tions made by the general government to the state for educational purposes, and the additions that have been made to them from time to time. The grants were made to the state. The state has complete control over them, to administer them as it pleases in promotion of the objects of the grants; and for this the public faith of the state stands solemnly pledged. The grants may not be burdened or subjected to waste for any other public purpose by general or special taxation, including taxation for drainage purposes. [*Greenleaf* v. *Trustees*, 22 Ill., 236; *Chicago* v. *People*, 80 Ill., 384; *People* v. *Trustees*, 118 Ill., 52; *Univ. of Chicago* v. *People*, 118 Ill., 565; *Trustees Ill. Industrial Univ.* v. *County of Champaign*, 76 Ill., 184; *Trustees* v. *Schroll*, 120 Ill., 509; **232** *and* **237**, *School Law.*]

Appropriations for sectarian purposes forbidden. § 3. Neither the general assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund whatever anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money or other personal property ever be made by the state or any such public corporation to any church, or for any sectarian purpose. [*County of Cook* v. *Industrial School*, 125 Ill., 540; **286** *School Law.*]

Teachers and school officers not to be interested in sale of books, etc. § 4. No teacher, state, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this state with which such officer or teacher may be connected, under such penalties as may be provided by the general assembly. [**287** *School Law.*]

County superintendent of schools. § 5. There may be a county superintendent of schools in each county, whose qualifications, powers, duties, compensation and time and manner of election, and term of office, shall be prescribed by law. [*Art.* 2, *School Law.*]

ARTICLE 5 of the constitution makes a Superintendent of Public Instruction one of the executive officers of the state, and provides for his election, term of office, etc.

ARTICLE 9, SEC. 12, of the constitution forbids school districts or other municipal corporations to incur any debt beyond five per centum on the value of the taxable property therein, as ascertained at the last assessment for the general tax. Compare also **215** of the law.

ARTICLE 4, SEC. 2, of the constitution forbids enacting any local or special laws "providing for the management of common schools."

This section is held by the supreme court to be, not a limitation upon the power of the legislature to select such agencies as it pleases to establish schools, to levy and collect taxes and disburse moneys for their maintenance, but rather a prohibition relating "merely to the management of common schools; that is, to the conduct of common schools in imparting instruction." [*Speight* v. *People*, 87 Ill., 595; *Fuller* v. *Heath*, 89 Ill., 296; *State* v. *Powers*, 45 Ohio State, 555.]

ARTICLE 9, SEC. 3, of the constitution provides that such property as may be used exclusively for schools may be exempted from taxation by general law. Pursuant to this section of the constitution, all public school houses and all property of institutions of learning, not leased or otherwise used for profit, are exempted by law from taxation. [*Sec. 2, Chap.* 120, *Starr and Curtis's Rev. Stat., Ill.*] Two classes of public school property are to be distinguished: One, consisting of the funds received at different times from the general government for educational purposes and additions thereto, which is held in trust by the state, and has been spoken of above in the note under article 8, Sec. 2, of the constitution. That class is exempt from all species of taxation. The other class consists of property, other than that of the first class, acquired and held for public school purposes by the several school corporations created by law. This second class of property is exempted from general taxation, but, by the rule laid down in *McLean Co.* v. *Bloomington*, 106 Ill., 209, would seem not to be exempt from special assessments. [*Also, Cooley on Taxation*, 458.]

SCHOOL LAWS OF ILLINOIS, 1889.

ARTICLE.
1. State superintendent of public instruction.
2. County superintendents.
3. Townships—Trustees of schools.
4. Township treasurer.
5. Board of directors.
6. Board of Education.
7. Teachers.
8. Revenue and taxation.
9. Bonds.
10. County clerk.
11. County board.
12. School funds.
13. School lands.
14. Fines and forfeitures.
15. Liabilities of school officers.
16. Miscellaneous.

ARTICLE 1.

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

§ 1. Time of election and term of office
§ 2. Oath and bond.
§ 3. Salary and office expenses.
§ 4. Duties defined.
§ 5. Powers defined.
§ 6. Liabilities.

1. Election—Term of office. SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That at the election to be held on Tuesday after the first Monday of November, in the year of our Lord one thousand eight hundred and ninety, and quadrennially thereafter, there shall be elected by the legal voters of this state, a state superintendent of public instruction, who shall hold his office for four years from the second Monday in January next after his election, and until his successor is duly elected and qualified.

2. Oath—Bond. § 2. Before entering upon his duties he shall take and subscribe the oath of office prescribed by the constitution, and shall also execute a bond, in the penalty of twenty-five thousand dollars, ($25,000) payable to the People of the State of Illinois, with securities to be approved by the governor, conditioned for the prompt discharge of his duties as superintendent of public instruction, and for the faithful application and disposition, according

to law, of all school moneys that may come into his hands by virtue of his office. Said bond and oath shall be deposited with the secretary of state, and an action may be maintained thereon by the state at any time for a breach of the conditions thereof.

3. Salary. § 3. And the said state superintendent shall receive, annually, such sum as may be provided by law, as a salary for the services required under the provisions of this act, or any other law that may be passed, and also all necessary contingent expenses for books, postage and stationery pertaining to his office, to be audited and paid by the state as the salaries and contingent expenses of other officers are paid.

Salary. Section 1 of the Fees and Salaries Act, fixes the salary of the state superintendent at thirty-five hundred dollars a year. The amount for clerk hire and contingent expenses is determined by the legislature at each session. [*Sec.* 1, *Chap.* 53, *Rev. Stat. Ill.*]

4. Official duties. § 4. It shall be the duty of the said state superintendent of public instruction—

First—to keep an office at the seat of government of the state.

Second—To file all papers, reports and public documents transmitted to him by the school officers of the several counties, each year separately.

Third—To keep and preserve all other public documents, books and papers relative to schools, coming into his hands as state superintendent, and to hold the same in readiness to be exhibited to the governor, or to any committee of either house of the general assembly. (*a*)

Fourth—To keep a fair record of all matters pertaining to the business of his office.

Fifth—To pay over, without delay, all sums of money which may come into his hands by virtue of his office, to the officer or person entitled to receive the same, in such manner as may be prescribed by law. (*b*)

Sixth—To counsel and advise in such manner as he may deem most advisable, with experienced and practical school teachers, as to the best manner of conducting common schools.

Seventh—To supervise all the common and public schools in the state.

Eighth—To be the general adviser and assistant of county superintendents of schools in this state.

Ninth—To address circular letters to county superintendents, from time to time, as he shall deem for the interests

of schools, giving advice as to the best manner of conducting schools, constructing school houses, furnishing the same, examining and procuring competent teachers.

Tenth—To, on or before the 1st day of November preceding each regular session of the general assembly, report to the governor the condition of the schools in the several counties of the state; the whole number of schools which have been taught in each county in each of the preceding years, commencing on the 1st of July; what part of said number have been taught by males exclusively, and what part by females exclusively; what part of the said whole number have been taught by males and females at the same time, and what part by males and females at different periods; the number of scholars in attendance at said schools; the number of persons in each county under twenty-one years of age, and the number of such persons between the ages of twelve and twenty-one years that are unable to read and write; the amount of township and county funds; the amount of the interest of the state or common school fund, and of the interests of the township and county fund annually paid out; the amount raised by an *ad valorem* tax; the whole amount annually expended for schools; the number of school houses, their kind and condition; the number of townships and parts of townships in each county; the number and description of books and apparatus purchased for the use of schools and school libraries under the provisions of this act, the price paid for the same, the total amount purchased, and what quantity and how distributed; the number and condition of the libraries, together with such other information and suggestions as he may deem important in relation to the school laws, schools, and the means of promoting education throughout the state; which report shall be laid before the general assembly at each regular session. (*c*)

Eleventh—To make such rules and regulations as may be necessary and expedient to carry into efficient and uniform effect the provisions of this act, and of all the laws which now are or may hereafter be in force for establishing and maintaining free schools in this state.

Twelfth—To be the legal adviser of all school officers, and, when requested by any such school officers, to give his opinion in writing upon any question arising under the school laws of this state. (*d*)

Thirteenth—To hear and determine all controversies arising under the school laws of this state, coming to him by appeal from a county superintendent, upon a written statement of facts certified by the county superintendent. (*e*)

Fourteenth—To receive and file all proper reports made to him from time to time by the several county superintendents of this state as required by article 2, of this act.

Fifteenth—To grant state certificates to such teachers as may be found worthy to receive them, as provided for in section 2 of article 7, of this act.

Sixteenth—To be *ex officio* a member of the board of trustees of the University of Illinois and of the Southern Normal University.

Seventeenth—To be *ex officio* a member of the board of education of the State of Illinois, and to act as secretary thereof.

Eighteenth—To report to the general assembly of Illinois, at its regular sessions, the condition and expenditures of the Normal University, and such other information as may be directed by the board of education of the State of Illinois or by the general assembly of this state.

Nineteenth—To visit such of the charitable institutions of this state as are educational in their character, and to examine their facilities for instruction, and to prescribe forms for such reports as he may desire from the superintendents of such charitable institutions.

(*a*) *Official Files—Return of Correspondence.* Correspondents asking for official opinions often request the state superintendent to return their letters with his answers thereto; but such requests are not complied with, for the law is construed to require that such letters must be retained on file. Correspondents should, therefore, retain copies of such papers as they wish to preserve; or transmit in duplicate, in which case one copy will be returned if desired. Attested copies of any official paper will be cheerfully furnished, when requested; but the originals can not be returned.

(*b*) *Superintendent handles no School Moneys.* The superintendent does not receive any school moneys. The only moneys which come into his hands as superintendent are the sums appropriated for the clerical and incidental expenses of his office.

(*c*) *Reports.* The reports of the state superintendent are made to the governor biennially; but each contains a statistical summary of school operations for each of the two preceding school years. The statistical school year begins July first.

(*d*) 1. *Power to make Rules.* This section grants the state superintendent large powers, both legislative and judicial in character, whose limits are not easily stated. That he speaks with authority in making rules, interpreting laws, and in giving opinions upon questions referred to him is recognized by the courts. [*Powell* v. *Board of Education*, 97 Ill., 375; *State* v. *Burton*, 45 Wis., 150; *State* v. *Graham*, 60 Wis., 395.]

2. *Decisions Final.* The decisions of the state superintendent are final, unless otherwise directed by the legislature, or reversed by a court of competent jurisdiction.

3. *Will not advise as to Cases in Court.* He has nothing to do with school cases which have been taken into the courts. Hence, he can not take under advisement, or furnish opinions upon, cases or questions upon which judicial proceedings have been instituted. It would be both useless and improper for him to do so, for his jurisdiction ceases where that of the courts begins. The object of the powers with which he is invested is to *prevent* litigation, not to interfere after suits have been commenced. This will explain why decisions are not furnished to parties in actual litigation. They must apply for information or instructions before bringing suit.

(*e*) 1. *Controversies—Appeals.* When controversies arise, the parties are first to seek the opinion and advice of the county superintendent. If his decision is satisfactory that ends it. If not, then the county superintendent forwards a written statement of the facts in the case, to the state superintendent. The county superintendent, having already examined the case and afforded the parties a full hearing, is familiar with all the essential points in issue, and can readily embody them in his statement to the state superintendent.

But it is the intention of the law that all matters of doubt, or in respect to which information or advice is needed, should be referred, primarily, to the county superintendent. He "shall be the official adviser and constant assistant of the school officers and teachers of his county." He stands at the head of the common school system of his county, and is the proper officer to apply to on all

subjects relating to the interests of the schools, and to the rights and duties of school officers and teachers in his county. It is his duty to be thoroughly acquainted with the law, with its official and judicial interpretations, and with the whole frame-work of our educational system, and thus to be qualified as the official and intelligent adviser of all in his county who may need his assistance.

This was undoubtedly contemplated in the original adjustment of the several classes of school officers; it is the shortest and most natural course for the parties concerned; it relieves the central office of an unnecessary burden, and smooths and simplifies the operations of the whole system. If the county superintendent should be unable to give the information, or to answer the questions submitted to him, it is his right and duty to apply to the state superintendent for the necessary advice or instructions, which the latter is bound to furnish—promptly and fully. But the county superintendent was intended to be, and is, the proper advisory and consulting officer on all common school matters in his county, and as such he should be first applied to. In the great majority of cases he can furnish the desired information or counsel, and thus save much time and delay to the parties concerned.

Should matters of a controversial nature be submitted to the state superintendent, he will deem it his duty to decline to consider or pass upon them until they shall have been referred to the county superintendent, as required by law. All such matters will receive prompt attention when they are received through the regular and prescribed channel, namely, through the county superintendent, and not otherwise. This is not to cause the parties needless trouble, nor to save the state superintendent from labor, but to subserve the ends of truth and equity, and to comply with the law. The one great end sought by the prior reference to the county superintendent, is to furnish the state superintendent the means of rendering a just and impartial decision, should the case come before him by appeal.

2. *Wisdom of the Law.* The wisdom of referring school controversies to superior school officers has been highly commended. "We are satisfied that this supervision of the

state superintendent over the affairs of schools and school districts, commonly very fruitful sources of litigation, has been most wisely conferred upon him for the public interest, as well as for the peace and prosperity of the schools and districts themselves." [*State* v. *Whitford*, 54 Wis., 150.] "If every dispute or contention among those intrusted with the administration of the system, or between the functionaries and the patrons or pupils of the schools, offered an occasion for a resort to the courts for settlement, the working of the system would not only be greatly embarrassed and obstructed, but such contentions before the courts would necessarily be attended with great costs and and delay, and likely generate such intestine heats and divisions as would in a great degree counteract the benevolent purposes of the law." [*Wiley* v. *School Commissioners*, 51 Md., 401.] "A quarrel or a lawsuit in a school district is generally not long confined to the original parties. It spreads among all the families, it goes into the selection of teachers, and injures the discipline of the schools; and if the difficulty once takes the shape of a lawsuit, and the parties have expended money as well as temper upon it, it is still more difficult to settle. Hence the provision for a cheap and speedy decision avoiding the delay and expense of a law suit." [*Appeal of Cottrell*, 10 R. I., 615.]

3. *Hearings—How conducted.* The hearings of these controversies and appeals are not to be conducted as suits are in a court of law. The school officer hearing the case has full discretion in all matters relating thereto since the statute prescribes no forms or rules to be observed. But it is, of course, as essential that parties before a superintendent have a fair hearing as that cases be fairly tried in court, both that justice may be done, and that the decisions may be approved by the community.

5. Official powers. § 5. The said state superintendent of public instruction shall be clothed with the following powers—

First—To direct and cause the county superintendent of any county, directors or boards of trustees or township treasurer of any township, or other school officer to withhold from any officer, township, district or teacher, any part of the common school, or township, or other school

fund, until such officer, township treasurer or teacher shall have made all schedules, reports and returns required of him by this act, and until such officer shall have executed and filed all official bonds and accounted for all common school or township or other school funds which have heretofore come into his hands, as required of him by this act.

Second—To require the several county superintendents of this state to furnish him with such information relating to their several offices as he may desire to embody in his report to the general assembly of this state.

Third—To require the board of trustees of each township in this state to make, at any time he may desire, a report similar to the report required to be made by such trustees on or before the fifteenth day of July preceding each regular session of the general assembly of this state as provided for in section 28 of article 3 of this act.

Fourth—Upon the recommendation of the county superintendent, or for good and sufficient reasons, to remit the forfeiture of the school fund by any township which may have failed to make the reports required by law.

Fifth—To determine and designate the particular statistics relating to schools which the inferior officers shall report to the county superintendent for the use of his office.

Sixth—To authorize the several county superintendents to procure such assistance as may be necessary to conduct county teachers' institutes for not less than five days in each year.

Seventh—To require annual reports from the authorities of incorporated towns, townships, cities or districts holding schools by authority of special charters to the same extent as regular school officers are or may be required to make such reports.

Eighth—To require the president, principal, or other proper officer of every organized university, college, seminary, academy or other literary institution, whether incorporated or unincorporated, or hereafter to be incorporated in this state, to make out such report as he may require in order that he may lay before the general assembly a fair and full exhibit of the affairs and conditions of such institutions and of the educational resources of the state.

Ninth—To require the auditor of public accounts to withhold from the county superintendent of any county the amount due any such county for its share of the interest on state school fund, or said county superintendent for his per diem compensation, until the report provided for in section 17 of article 2 of this act shall have been furnished as therein required.

6. Not to be interested in sales of books, etc. § 6. The said state superintendent of public instruction shall not be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this state, and for offending against the provisions of this section, he shall be liable to indictment, and upon conviction, shall be fined in a sum not less than twenty-five nor more than five hundred dollars, and may be imprisoned in the county jail not less than one month nor more than twelve months, at the discretion of the court.

ARTICLE 2.

COUNTY SUPERINTENDENTS.

§ 1. Time of election and term of office.
§ 2. Oath and bond.
§ 3. Form of bond.
§ 4. Obligors bond jointly and severally.
§ 5. Supervisors may require a new bond.
§ 6. Office and supplies.
§ 7. Liable to removal.
§ 8. Vacancies.
§ 9. Time limited.
§ 10. Assistants.
§ 11. Commissions and per diem.
§ 12. Itemized bills and warrant from auditor.
§ 13. Duties defined.
§ 14. Powers defined.
§ 15. Records of land sales.
§ 16. Report to county board.
§ 17. report to state superintendent.
§ 18. Collecting statistics, and suit against trustees as individuals.
§ 19. Approval of township treasurer's bond and delivery of written statement to the township treasurer.
§ 20. Apportionment of funds to townships.
§ 21. Loaning of county fund.
§ 22. Appeal to the state superintendent.
§ 23. Delivery of money, books, papers, etc., to successor in office.

7. Election. SECTION 1. On Tuesday next after the first Monday in November, A. D. 1890, and quadrennially thereafter, there shall be elected by the qualified voters of every county in this state, a county superintendent of schools, who shall perform the duties required by law, and shall enter upon the discharge of his duties on the first Monday of December after his election.

8. Oath—Bond. § 2. He shall, before entering upon his duties, take the oath prescribed by the constitution, and execute a bond payable to the People of the State of Illinois, with two or more responsible freeholders as security, to be approved by the county board or by the judge and clerk of the county court, in a penalty of not less than twelve thousand dollars ($12,000), to be increased at the discretion of the said county board, conditioned that he will faithfully perform all the duties of his office according to the laws which are or may be in force during his term of office.

Bond. The amount of the bond should be at least double the amount of moneys and securities that will be held by the superintendent at any one time.

9. Form of bond—Filing. § 3. The bond required in the foregoing section shall be in the following form, viz:

STATE OF ILLINOIS, } ss.
..... County. }

Know all men by these presents, that we, A B, C D and E F, are held and firmly bound, jointly and severally, unto the People of the State of Illinois, in the penal the sum of.....dollars, to the payment of which we bind ourselves, our heirs, executors and administrators firmly by these presents.

In witness whereof, we have hereunto set our hands and seals, this..... day of.....A. D. 18....

The condition of the above obligation is such, that if the above bounden A B, county superintendent of the county aforesaid, shall faithfully discharge all the duties of such office, according to the laws which now are and may hereafter be in force, and shall deliver over to his successor in office, all moneys, books, papers, and property in his hands, as such county superintendent, then this obligation to be void; otherwise to remain in full force and virtue.

A B (Seal.)
C D (Seal.)
E F (Seal.)

And which bond shall be filed in the office of the county clerk.

10. Liability of obligors. § 4. The obligors in such bond shall be bound jointly and severally, and upon it an action or actions may be maintained by the board of trustees of the proper township, or any other corporate body interested, for the benefit of any township or fund injured by any breach of the conditions thereof.

Liability for Loss of Funds. The supreme court has passed upon the liability of township treasurers for all funds coming into their hands as treasurers in *Thompson* v. *Trustees*, 30 Ill., 99. [**99,** *note* 4], and the same liability attaches to the county superintendent. The official relations of county superintendents to the public funds coming into their hands as such, being identical in nature with those of township treasurers, the same stringent rule of responsibility applies to the former as to the latter—they are equally liable on their official bonds for the loss of any trust funds in their hands, even though caused by accident or the felony of another. I do not see any mode of relief in any such case, except by the special interposition of the legislature. In the case of the public funds distributed by county superintendents under section twenty of this article, the liability does not cease with the expiration of the time within which it is the duty of township treasurers to call for their respective amounts, but remains in

full force so long as any part of said funds remains in their hands. Prudence, therefore, dictates that all said funds, when received and payable, should be paid over and receipted for with as little delay as possible.

11. New bond. § 5. If a majority of the county board shall be satisfied, at any time, that the bond of said county superintendent is insufficient, it shall be the duty of such superintendent, upon notice being given to him by the clerk of such board, to execute a new bond, conditioned and approved as the first bond; *Provided*, that the execution of such new bond shall not affect the old bond or the liability of the securities thereon.

12. Office, etc. § 6. It shall be the duty of the county board of the county to provide the said county superintendent with a suitable office, with necessary furniture, and with office supplies, as is done in the case of other county officers.

Office—Furniture—Supplies. The county superintendent's office should be a well lighted room of considerable size, and easy of access. If it is not large enough for the examination of teachers, the superintendent should have the use of additional room, as he may need. The furniture should include, besides chairs, tables and writing desk, a bookcase, a press for copying letters and a letter-book, letter files, and other appliances for preserving letters and papers. The superintendent should also be furnished with a dictionary, a good county map and a map of the state. His office supplies should include all stationery, blanks, record books, necessary printing, postage and the other incidentals of the office. In regard to all these matters, the county board should deal with the superintendent just as it does with the other county officers, and should order the bills therefor paid from the county treasury. Formerly the state superintendent ruled that these things, when not furnished by the county board, might be obtained by the county superintendent and paid for out of school funds in his hands. But since the law was amended in 1885 to read as above, such a ruling is no longer necessary; and inasmuch as the law now points out the way in which the office, furniture, etc., shall be provided and paid for, it is held to be unlawful for the county superintendent, even with the consent or by the direction of the county board, to use school moneys

for any such purpose. The only exceptions to the rule that the county superintendent's incidental expenses must be paid from the county treasury, are that advertising the times and places of holding examinations for teachers, may by **191,** be paid for out of the school fund, and that the expenses of the institute, held under **194,** are a charge upon the institute fund. County superintendents should determine in advance, as nearly as may be, what incidental expenses they will have, and obtain authority from the county board to incur them, or secure a regular allowance for such purposes. If county superintendents wish or expect to incur unusual expenses, they should arrange for them in advance with the county board.

In most counties the county boards have treated the county superintendent's office with reasonable liberality; but a few boards have been extremely niggardly. The law now declares this office as important as other county offices, and county boards must accord to all the same measure of support.

13. Removal. § 7. The said county superintendent shall be liable to removal by the county board for any palpable violation of law or omission of duty.

Removal. The county board may not capriciously remove a county superintendent; he may be removed for a "palpable violation of law or omission of duty" only. It has been held in this state that a county board justly removed a county superintendent who had been repeatedly intoxicated at times when he should have been attending to his official duties. It was also held that it was not essential to the validity of the order of removal in this case that the record of the board should show charges preferred and filed; that the mode of procedure in procuring and hearing evidence in such a case was within the discretion of the county board, and that since the statute is silent on the point, the board is not required to give the superintendent notice of the time and place of the trial. [*People* v. *Mays,*117 Ill., 257.]

14. Vacancy. § 8. When the office of county superintendent shall become vacant by death, resignation, the removal of the incumbent by the county board, or other-

wise, the county board shall fill the vacancy by appointment, and the person so appointed shall hold his office until the next election of county officers, at which election the county board shall order the election of a successor.

Resignation. When an officer tenders his resignation in writing to the person or persons who may properly accept it, and the paper is received and ordered filed, the resignation is thereby accepted though there may be no formal act or record of acceptance, and it is not subject to withdrawal thereafter. [*Pace* v. *People*, 50 Ill., 432.]

15. Limitation of time. § 9. In counties having not more than one hundred (100) schools, the county board may limit the time of the superintendent: *Provided,* that in counties not having more than fifty (50) schools, the limit of time shall not be made less than one hundred and fifty (150) days a year; in counties having from fifty-one (51) to seventy-five (75) schools, not less than two hundred (200) days a year; and in counties having from seventy-six (76) to one hundred (100) schools, not less than two hundred and fifty (250) days a year.

Time. In counties with not more than one hundred schools the county superintendent has all his time for his official work, unless the county board limits him; and the extent of this limitation is fixed. The county boards in these smaller counties are not required to limit the time of the county superintendent. Usually the best interests of schools and of the county will be consulted by putting no restriction upon the county superintendent which shall limit his time for school supervision.

16. Assistant. § 10. The county superintendent may, with the approval of the county board, employ such assistant or assistants as he needs for the full discharge of his duties. Such assistants shall be persons of good attainments, versed in the principles and methods of education, familiar with public school work, and competent to visit schools. Such assistants shall receive such compensation as may be fixed by the county board.

17. Compensation. § 11. County superintendents shall receive in full, for all services rendered by them, commissions as follows: Three per cent. commission upon the amount of sales of school lands, or sales of land upon mortgage, or of sales of real estate taken for debt, including all services therewith. Two per cent. commission upon all sums distributed, paid or loaned out by them for the support of

schools. For all other duties required by law to be performed by them, four dollars ($4) a day for such number of days as shall be spent in the actual performance of their duties, not exceeding the number fixed by the county boards in counties in which the boards are given power to fix the number of days by section 9 of this article of this act, and one dollar ($1) a day for expenses for the number of days actually spent in school visitation.

1. *Commissions.* The commissions which the county superintendent receives are to pay for his services in selling school lands and loaning, distributing and paying school funds, and for the heavy responsibilities he assumes in connection therewith. [**10,** *note.*]

The county superintendent is entitled to three per cent. of the amount realized from all sales of school lands made by him. When a sale of school lands is made by the superintendent, and the amount for which the lands are sold is not actually paid in, but loaned to the purchaser or purchasers, he is entitled to three per cent. for selling and two per cent. for loaning. When the purchaser of school lands pays the full price of the land to the commissioner in cash, the money so received should be paid to the township treasurer, to be loaned by him. But if the treasurer waives his right to receive and loan said funds, and the township trustees request it, the county superintendent, acting as the agent of the trustees, may negotiate the loan and perform all the services connected therewith, retaining the commissions allowed by law. The notes, mortgages and other securities, in such cases, must be made payable to the board of trustees, by their proper corporate name, the same as if the loan had been made by the township treasurer, as required by **102.**

Besides loans made in connection with land sales, the county superintendent, in a county having such a fund, loans the county fund and receives commissions therefor.

He distributes and pays out "for school purposes" those sums only which he pays over to township treasurers according to **26**; and the commission is two per cent. of the amount paid over.

2. *Per Diem Compensation.* With regard to the power of the county board to fix the number of days, see **15**, *note.*

18. Bills—Auditor to pay. § 12. The county superintendents shall present, under oath or affirmation, their itemized bill for their per diem compensation and for the expenses allowed by this article of this act, when visiting schools, together with a report of all their acts as such county superintendent, or assistant, including a list of all the schools visited, with the dates of visitation, to the county board, at the annual meeting of such county board in September, and as near quarterly thereafter as such board may have regular or special meetings, and after the bills have been audited by the county board, the county clerk shall certify to such auditing upon the bills, and transmit them to the auditor of public accounts, who shall, upon receipt of them, remit in payment thereof to each superintendent his warrant upon the state treasurer for the amount certified to be due him. The said auditor, in making his warrant to any county for the amount due it from the state school fund, shall deduct from it the several amounts for which warrants have been issued to the county superintendent of said county since the next preceding apportionment of the state school fund.

The County Superintendents' Bills. The auditor of public accounts furnishes a blank bill in a form which complies with the law. This blank, duly filled out and accompanied by detailed report of official work, must be submitted by the county superintendent to the county board. When the bill has been audited by the board and certified by the county clerk, he sends it to the state auditor for payment.

As to the power of the county board in the premises, see **230**, *note* and **15**, *note*.

19. Official duties. § 13. It shall be the duty of each county superintendent of schools in this state—

First—To sell township fund lands, issue certificates of purchase, report to the county board and state auditor, and perform all other duties pertaining thereto, as required by article 13 of this act.

Second—To register applicants for admission to the state normal universities and to the University of Illinois, and to assist in the examination of the same as directed by the state board of education or other proper authorities. (*a*)

Third—To visit each school in the county at least once a year; and in the performance of this duty he shall spend at least half the time given to his office, and more, if practicable, in visiting ungraded schools. (*b*)

Fourth—To note, when visiting schools, the methods of instruction, the branches taught, the text-books used, and

the discipline, government and general condition of the schools.

Fifth—To give to teachers and school officers such directions in the science, art and methods of teaching and courses of study as he may deem expedient and necessary.

Sixth—To act as the official adviser and constant assistant of the school officers and teachers of his county; and, in the performance of this duty, he shall faithfully carry out the advice and instruction of the state superintendent of public instruction.

Seventh—To conduct, as provided for in section 10 of article 7 of this act, a teachers' institute, and to aid and encourage the formation of other teachers' meetings, and to assist in their management.

Eighth—To labor in every practicable way to elevate the standard of teaching, and improve the condition of the common schools of his county. (*c*)

Ninth—To examine, at least once each year, all books, accounts and vouchers of every township treasurer in his county, and if he finds any irregularities in them, he shall at once report the same in writing to the board of trustees, whose duty it shall be to take, immediately, such action as the case demands.

Tenth—To examine all notes, bonds, mortgages, and other evidences of indebtedness which the township treasurer holds officially; and if he finds that the papers are not in proper form, or that the securities are insufficient, he shall so state in writing to the board of trustees. (*d*)

Eleventh—To give notice of the election of trustees in cases such as those provided for in section 15 article 3 of this act.

Twelfth—To file and safely keep the poll books and returns of any election required to be returned to the county superintendent by any provision of this act.

Thirteenth—To investigate and determine all matters pertaining to the change in the boundaries of school districts, which may come to him by appeal from the decision of the school trustees, and to notify the township treasurer, from whom the papers relating to the matter were received, of his decision of the matter.

Fourteenth—To give notice of the election of school directors in cases such as are provided for in section 9 of article 5 of this act.

Fifteenth—To hold meetings, at least quarterly, for the examination of teachers, as provided for in section 7 of article 7 of this act.

Sixteenth—To grant certificates of qualification to such persons as may be qualified to receive them, as provided

for in section 3 of article 7 of this act, and to keep a record of all teachers to whom such certificates have been granted, as provided for by section 4 of article 7 of this act and keep a record of all teachers employed in teaching in his county. (*e*)

Seventeenth—To keep a just and true account of all moneys received and all moneys paid out on account of the "institute fund," and make report thereof to the county board, as provided for in section 9 of article 7 of this act.

Eighteenth—To present to the county board of the county, at the first regular meeting thereof, annually, the report required by section 3 of article 11 of this act.

Nineteenth—To notify presidents of boards of trustees and clerks of school districts, on or before September 30th, annually, of the amount of money paid by him to the township treasurer, and the date of such payments.*

Twentieth—To receive and file, on or before the fifteenth day of July preceding each regular session of the general assembly, and at such other times as may be required by the state or county superintendent, a statement from the board of trustees of each township giving such statistics and information as may be called for.

(*a*) *Relation to Normal Schools and State University.* The county superintendent can learn of the duty imposed upon him by this clause of the law by consultation with the presidents of the institutions therein named.

(*b*) *Supervision of Schools—Time for Same.* The first part of this section enjoins upon the county superintendent a careful supervision of the public schools of his county. In counties having more than one hundred schools, he has all his time for his official work, with but this restriction, which applies as well to county superintendents in counties with a smaller number of schools, that half the time given to his official work must be spent in the supervision of ungraded schools. The term "ungraded school" is held to mean a school with but a single teacher, who has pupils of all degrees of advancement. The purpose in requiring so much time to be given to the country schools is to secure for them that which they need but have usually failed to receive. During the first, second and fourth quarters of the county superintendent's year he can easily spend more than half his time in visiting ungraded schools; but during the third quarter, he can spend little

*Form No. 2.

or no time in that way in most parts of the state, for the country schools are not in session then. The county superintendent fully complies with the law if his bills for the four quarters, taken together, show that half the time charged for in them has been spent in the supervision of ungraded schools. Hence his bill for the third quarter should not be objected to by the county board even though it show that during the quarter he has not visited such schools at all, provided it is apparent, when the bill is considered, that by the close of the year the county superintendent will have done, for the whole year, what the law requires of him in respect to visitation of ungraded schools.

(*c*) 1. *Importance of Superintendent's Duties.* The chief duties are not to sell school land and apportion school moneys, but to visit schools; to study their methods of instruction, discipline and government; to instruct in the science, art and methods of teaching; to be the advisor and assistant of school officers and teachers; to promote the formation of teachers' institutes; and to labor in every practicable way to elevate the standard of teaching, and to improve the condition of the common schools of his county.

2. *Necessity for Good Men.* The county superintendents should be the prompt, efficient and reliable agents through whom the state superintendent may at all times communicate with the schools of the state and carry out his plans for their improvement; they should be the ready and constant advisers of teachers, directors and township officers; counseling them in their duties, relieving them in their perplexities, assisting them in their records and in all the business details pertaining to the schools. They should be active and efficient helpers in preparing for, organizing and conducting teachers' institutes, and in bringing the people to see the necessity of thorough teachers and sound principles and methods of instruction.

The idea that this work can be properly done by any man in connection with or in addition to any other regular profession or employment, is absurd; the mere business and financial matters connected with the schools may be attended to by a person engaged in other pursuits, but to

speak of this as *school supervision* would be a strange perversion of language.

The visitations of the superintendent should be conducted with a definite plan and aim. and the results carefully noted and preserved. He should always aim, at some positive, practical good to the school; he must know how and what to observe, and how and what to speak.

In order to form a just opinion of the real condition of the school visited, the ordinary routine of the exercises should not be disturbed or suspended, and the visit should not be less than two or three hours, if practicable.

4. *Superintendent's Discretion—County Board's Authority.* The law makes the superintendent himself the judge as to how often it may be expedient and practicable for for him to visit any particular school or schools. His visits should be as frequent as the interests of each school seem, in his judgment, to require, and no more. And for exercise of his best judgment and discretion in the matter, he can not be called to account. The law imposes upon him the duty, and duty implies right. His honest acts in the visitation of schools can not be inquired into by the county board, and payment for the service refused, except that the board may inquire whether or not he has spent, as required, one-half the time given to his office in visiting ungraded schools. To justify such a proceeding on the part of the county authorities there must be a palpable case made out, showing corruption or fraud, or a gross perversion or violation of the intent and spirit of the law by the county superintendent. A county court or board of supervisors, can not dictate to a county superintendent in respect to the number, duration, or necessity of his school visitations. They may remove him from office "for any palpable violation of law, or omission of duty," but in the absence of any such palpable dereliction, they can not, in any manner, molest, restrict, or interfere with him in the discharge of his official duties; and any order or resolution to that effect, would be of no force or obligation. Nor is a county superintendent to be governed, in visiting schools, by the wishes or opinions of the directors or inhabitants of the respective districts. While a request to

visit a particular school would be an additional reason for doing so, a request not to visit, or silent indifference on the part of the directors and people of a particular district, would be no reason or justification for neglecting to visit that school—but rather the contrary. The superintendent is the judge of his own actions in the premises, and will visit when, where, and as frequently as he thinks duty requires, regardless of the assent or dissent, the request or protest, of either the county authorities or the people of the respectfve districts—subject only to the penalties prescribed for violation of law or omission of duty.

As to the time that should be spent in each school visited, that also is left to the best judgment of the county superintendent, and he must be governed in each case by the particular circumstances and condition of the school visited keeping in mind the requirements of the act. It is obvious that it will require a longer stay and a closer investigation to ascertain the condition and needs of some schools, than it will of others, and no one but the county superintendent himself can decide what the duration of the visit in each case should be. If it were worth while to make a general suggestion on the subject, I would say that a visit of less than three hours, or one-half of a school-day, would not be likely to be of much use.

5. *Superintendent may not be a Teacher or City Superintendent.* The multiplicity and the character of the duties imposed upon the county superintendent of schools by this section are such that he cannot discharge them, and, at the same time, act as a teacher or as superintendent of a city schools; and it is held that an attempt to do this is a violation of law.

(*d*) 1. *Examination of Treasurers' Books, etc.* Inasmuch as the law has required the county superintendent to examine each treasurer's books and papers since 1879, it is assumed that this duty has been pereformed annually, and that the aggregate of the township fund and of other funds shown at the date of the last examination can be taken as a starting point for the next. The examination will naturally begin with the township fund and should be directed to ascertaining whether the fund still remains as it was, or

what additions it has received, or what losses, if any, it has suffered. Then the loans should be looked into, to ascertain whether the papers are in due form and whether the law has been complied with in making the loans. He is also to see that the security for each loan is sufficient. Taking up next the fund held for distribution, he should note whether the treasurer has charged himself with the proper amounts received as income of the township fund, and from himself, the county superintendent, on apportionment. He should see that the account is balanced by the expenditures, as shown by vouchers, distribution by the trustees, and cash on hand. In the account of each district he must note whether the amount distributed to it by the trustees has been passed to its credit, and whether the amount from taxes agrees with that shown in the office of the county treasurer. Receipts from bonds and other sources should be traced so far as practicable. For all expenditures in behalf of districts, the orders paid should be called for. In all the accounts the cash which should be on hand must be verified by the county superintendent. In a word, the county superintendent, in making this examination, is to make it thoroughly, taking nothing for granted; the sole object being to ascertain whether the funds are each of them intact, whether the law has been complied with in handling them, and whether the accounts are accurately and intelligently kept. That the work is one of great importance need not be said.

May not be a Township Treasurer. The offices of county superintendent of schools and township school treasurer are plainly incompatible, and the same person may not lawfully hold both at the same time.

(*e*) *Record of Teachers.* Keeping a record of all teachers employed in teaching in the county is now first required.

20. Official powers. § 14. The said county superintendent shall have power—

First—To require the board of trustees of each township in his county to make at any time he may desire, the report provided for in section 28 of article 3 of this act.

Second—To recommend to the state superintendent the remission of the penalty provided for a failure by the trustees of schools to make the reports provided for by law. (*a*)

Third—To renew teachers' certificates at their expiration by his endorsement thereon. (*b*)

Fourth—To revoke the certificate of any teacher for immorality, incompetency or other just cause. (*b*)

Fifth—To direct in what manner township treasurers shall keep their books and accounts.

Sixth—To bring suit against the county collector for a failure to pay state auditor's warrant, as provided for in section 5 of article 12 of this act.

Seventh—To remove any school director from office for a willful failure to perform the duties of his office. (*c*)

Eighth—To lease and sell real estate in cases provided for in section 26 of article 13 of this act, in the manner therein specified.

(*a*) *Remission of Penalty.* See **5,** *Fourth.*

(*b*) *Renewal and Revocation of Certificates.* See **187,** *Notes* 6 *and* 7.

(*c*) *Removal of a Director.* Any director failing to perform his duties, as director, under this act, may be removed by the county superintendent, and a new election ordered, as in other cases of vacancy. A willful refusal to sign a contract made with a teacher, or to accept and file it, or to draw orders for a teacher's pay during the currency of the contract, and an obstinate neglect to furnish necessary school house supplies may be taken into account in proceedings for a removal. Nothing is more likely to injure schools than meanness and unfairness in dealing with teachers. [*Geddes* v. *Thomastown*, 46 Mich., 316.]

Before proceeding to remove him, due notice must be given the delinquent director, so that he may have an opportunity to avoid removal by attention to his duties. If there is continued failure, the superintendent will inform the delinquent director, in writing, of his removal from office, and also file with the township treasurer a written notice of the same. It will then be the duty of the remaining directors to order an election to fill the vacancy. The remedy is a harsh one, and the county superintendent should not resort to it unless the exigencies of the case plainly demand an exercise of this power.

21. Funds of land sales—Loans. § 15. The said county superintendent shall provide three well bound books, which shall be paid for from the county treasury. These books shall be known and designated by the letters A, B, C for the following purposes: In book "A" he shall record at length all petitions presented to him for the sale of common school lands, and the plats and certificates of valuation made by or under the direction of the trustees of schools, and the affidavits in relation to the same. In book "B" he shall keep an account of all sales of common school lands, which account shall contain the date of sale name of purchaser, description of land sold and the sum sold for. In book "C" he shall keep a regular account of all moneys received for lands sold otherwise, and loaned or paid out; the persons from whom received and on what account, and showing whether it is principal or interest; the person to whom loaned, the time for which the loan was made, the rate of interest, the names of the securities when personal security is taken, or if real estate is taken as security, a description of the real estate; and if paid out, to whom, when and on what account and the amount paid out; the list of sales, and the account of each township fund to be kept separate.

Records of Land Sales. The first part of this section relates to the sales of sixteenth section lands, and loaning the moneys received on account of such sales. Since, however, all these lands have been sold, excepting a few acres, and the funds turned over to the township treasurers, the topic will be passed with the suggestion that the books named should be carefully preserved; for the transactions recorded in them are essential links in the titles of these school lands, and sometimes no other record exists of what these books contain.

22. Report to county board. § 16. The county superintendent shall report, in writing, to the county board, at their regular meeting in September of each year giving first, the balance on hand at the time of the last report and a statement in detail of all receipts since that date, and the sources from which they were derived: second, the amount paid for expenses; third, the amount of his commissions; fourth, the amount distributed to each of the township treasurers in his county; fifth, any balance on hand. He shall also present for inspection at the same time his books and vouchers for all expenditures, and all notes or other evidences of indebtedness which he holds

officially, with the securities of the same; and he shall give in writing a statement of the condition of the county fund, of the institute fund, and of any township funds of which he may have the custody.

1. *Report relates to What.* The county superintendent holds no longer any township funds; so the report he is required to make by this section includes, at most, but two things: (1) The account of moneys received for distribution to the townships, which may be called the "distributable fund," and (2) the condition of the county fund, which is found in some seventy counties.

2. *The Distributable Fund.* The distributable fund consists (aside from any balance) of **(1)** the amount received on the auditor's warrant; (2) receipts from fines and forfeitures; (3) income of county fund, if the county has such a fund. The only lawful disbursements from this fund are (1) to township treasurers; (2) to county superintendents, two per cent. commission on the amount paid township treasurers (on the amount paid, not on the whole fund), and on amounts loaned, and (3) to pay for advertising the times and places of examining teachers. It is so provided in sections **17, 26, 27** and **191.** The report should show in detail the receipts and expenditures and the evidences of balances on hand.

3. *The County Fund.* The report of the county fund should state its amount, how it is invested, and the condition of the several loans, and there should be an exhibit of the securities held and of the cash on hand.

4. *Other Reports.* The reports called for by this section have no connection with the quarterly bills for services accompanied by detailed statements thereof, which county superintendents render for approval and transmittal to the state auditor; nor have they anything to do with the bills for office expenses, etc., incurred under section **12** by authority of the county board, and presented for audit and payment from the county treasury.

5. *The Institute Fund.* A statement of this fund, collected and expended under **192** and **193,** must be a part of the superintendent's report to the county board.

23. Statistical report. § 17. On or before the fifteenth day of August before each regular session of the general assembly of this state, or annually, if so required by the state superintendent of public instruction, the county superintendent shall communicate to said state superintendent all such information and statistics upon the subject of schools in his said county as the said state superintendent is bound to embody in his report to the governor, and such other information as the state superintendent shall require.

1. *Reports.* One of the most important duties of county superintendents is the preparation of full and careful reports, showing the progress and condition of the public schools in their respective counties. Upon the completeness and accuracy of the county reports depend the fullness and value of the biennial report to the governor, and upon that report the people of this and other states rely for their knowledge of the condition of public education in Illinois, and the legislature, for the data by which to estimate the character of the results achieved, and the legislation necessary to the further improvement and development of the whole system.

I wish I could impress upon school officers the vast importance of well digested, consistent and thoroughly trustworthy statistical and general educational reports. It is certain that many consider the elaboration and tabulation of school reports as little better than useless drudgery—to be performed because required by law, but as of little practical value. And, hence, it can not be denied that this duty is more neglected, or more carelessly performed, than any other connected with our system. I speak in general terms, for there have always been some whose reports have reflected honor upon themselves and the state.

The first requsite of a statistical report is *truth*. Let the facts appear just as they are, whether they show progress or retrogression. It is folly to exaggerate facts in order to save the pride of the community, or to make actual decline appear as advancement. It is more than folly, because it does injustice to those whose *bona fide* progress is made to suffer by comparison with fictitious progress and because it misleads and deludes the public

mind. Consistency, fullness of details, discriminating accuracy, close observation, neatness and punctuality, are also indispensable in good school reports. Such reports require a great deal of time, and thought and patience; but they are worth something when you get them. I have spoken of the necessity of school reports. They are absolutely essential—they are the way-marks of progress. No system of schools, or anything else, can dispense with such periodical exhibits of its operations.

2. *Penalty for Failure or Refusal to report.* For refusal or neglect to render such reports, at the time and in the manner required by law, county superintendents are liable to removal from office; since the refusal or neglect would be a palpable omission of duty [**13**]. They are also liable to a fine of twenty-five dollars for each default in making such report [**284**]; should the county suffer loss thereby [**5**, *ninth*], the superintendent would be liable therefor on his bond, and he may lose his pay.

24. Trustees negligent. § 18. In all cases where the township board of trustees of any township shall fail to prepare and forward, or cause to be prepared and forwarded, to the county superintendent the information and statistics required of them in this act, it shall be the duty of the said county superintendent to employ a competent person to take the enumeration and furnish such statistical statement, as far as practical, to the superintendent; and such person so employed shall have free access to the books and papers of said township to enable him to make such statement; and the township treasurer, or other officer or person in whose custody such books and papers may be, shall permit such person to examine such books and papers at such times and places as such person may desire for the purposes aforesaid; and the said county superintendent shall allow, and pay to the person so employed by him, for the services, such amount as he may judge reasonable out of any money which is or may come into said superintendent's hands, apportioned as the share of or belonging to such township; and the said county superintendent shall proceed to recover and collect the amount so allowed or paid for such services, in a civil action before any justice of the peace in the county, or before any court having jurisdiction, in the name of the People of the State of Illinois, of and against the trustees of schools of said township, in their individual capacity; and in such suit or

suits the said county superintendent and township treasurer shall be competent witnesses; and the money so recovered, when collected, shall be paid over to the county superintendent for the benefit of said township, to replace the money taken as aforesaid.

Reports not returned by Trustees. County superintendents must see that township reports are returned to them at the time and in the manner required by law. If imperfect or erroneous reports are made, they should be returned for correction, if the time will permit. If there is not time for the return of the reports for correction, or if the reports are sent back by the treasurer, still imperfect or erroneous, the superintendent should send an agent into the delinquent township, the same as if no reports had been returned.

25. Approval of treasurers' bonds. § 19. Whenever the bond of any township treasurer approved by the board of trustees of schools, as required by law, shall be delivered to the county superintendent, he shall carefully examine the same, and if the instrument is found in all respects to be according to law, and the securities good and sufficient, he shall endorse his approval thereon, have it recorded in the circuit clerk's office, and file the same with the papers of his office; but, if said bond is in any respect defective, or if the penalty is insufficient, he shall return it for correction. When the bond shall have been duly received and filed, the superintendent shall, on demand, deliver to said township treasurer a written statement certifying that his bond has been approved and filed, and that said township treasurer is entitled to the care and custody, on demand, of all moneys, bonds, mortgages, notes and securities, and all books, papers and property of every descripton belonging to said township,

1. *Approval of Treasurers' Bonds.* The object of this section is to throw further safeguards around the township funds, by requiring a close scrutiny of the bonds of township treasurers, on the part of county superintendents. For lack of such scrutiny many townships have suffered heavy losses; and there is reason to fear that some bonds now on file are worthless by reason of fatal defects of form, or failure of renewal for a term of years, and the consequent present insufficiency of the securities. It is true that the duty of passing upon the sufficiency of the township

treasurer's securities, and of approving his bond, rests by law, primarily, upon the board of trustees, and that the penal consequences of neglect fall chiefly upon them. But it is plain from the language of this section, that it is the intention of the legislature to require great vigilance on the part of the county superintendents, as an additional safeguard for the funds of the townships. Hence, if a bond is "in any respect defective," they must "return it for correction." Their duty is not fulfilled by simply acting as custodians of the bonds of township treasurers, and accepting, without investigation, all that are presented, provided only that they are approved by the requisite number of trustees. They must closely examine every instrument, to see that it is in strict conformity with the law; that it is duly renewed every two years, and, as far as practicable, that "the securities are good and sufficient." And until the bonds are purged of all defects, they must refuse to pay over the funds or to deliver up the papers, etc., to the township treasurers concerned. When a bond is perfected, according to law and to the requirements of the county superintendent, and not before, that officer will "indorse his approval thereon, and file the same with the papers of his office." He should insist that the bond be in the form prescribed in **99,** which also gives the superintendent the power to call for additional security whenever he finds that the bond has become insufficient, and this power imposes a corresponding duty of keeping well informed as to the condition of each bond on file in his office. The provision for record of the bond in the circuit clerk's office is new.

26. Apportionment and payment of school funds. § 20. Upon the receipt of the amount due upon the auditor's warrant the county superintendent shall apportion said amount, also the interest on the county fund and the fines and forfeitures, to the several townships and parts of townships in his county, in which townships or parts of townships schools have been kept in accordance with the provisions of this act, and with the instructions of the state and county superintendents, according to the number of children, under twenty-one years of age, returned to him, and shall pay over the distributive share belonging to each township and fractional township, to the respective township treasurers, or other authorized person annually;

**Provided*, that no part of the state, county or other school fund shall be paid to any township treasurer or other person authorized by said treasurer, unless said township treasurer has filed his bond, as required by section 1 of article 4 of this act, nor in case said treasurer is re-appointed by the trustees, unless he shall have renewed his bond and filed the same as aforesaid.

1. *Conditions of Apportionment.* The condition upon which a township may share in the apportionment of funds made by the county superintendent, is that it has had during the year ending June 30th, preceding the distribution, at least one school kept within its limits in accordance with the law. What this term, "in accordance with law," means in this connection is considered under **55,** *note* (*c*). Townships and parts of townships, in which no schools have been kept according to law, can not share in the distribution of the school fund. But, if a single school of a township has been kept as the law requires, that township is entitled to the benefit of the school fund. Where a township is divided by a county line, leaving one or more districts on each side of said line, the treasurer of such township is entitled to funds from each superintendent, provided that schools have been kept according to law in each fraction of the township; but not otherwise. If the district or districts in the part of the township lying in one county, have complied with the provisions of the law, while the district or districts of the township which lie in the other county, have not so complied, then the treasurer is entitled to funds from the superintendent of the former county, but not from the superintendent of the latter county. Another condition of sharing in the distribution is that the trustees have made the annual report to the county superintendent as required by **57.** See the last sentence of that section. Failure to satisfy either of these conditions causes a forfeiture of the fund by the township failing (the state superintendent may remit the forfeiture on account of a failure to report [**5.** *fourth*]), and the county superintendent must in such a case apportion the whole distributable fund to the other townships. [*Pace* v. *People*, 47 Ill., 321.]

*Form No. 3.

2. *Basis of Apportionment.* The basis of ths apportionment is the number of persons under twenty-one years of age according to the returns of the school census received by the county superintendent. Official census returns must be received, unless known to be false and fraudulent, in which case they may be rejected and the funds withheld until true returns are made; or, the latest correct returns on file may be taken as the basis, as aforesaid.

3. *Conditions of Payment.* But the county superintendent, after making the apportionment to any township must not pay over the money to the treasurer unless he has fully complied with the law in regard to his bond. The provisions of the law on this subject may be summed up as follows:

(1) Every township treasurer, before entering upon his duties, must execute a bond.

(2) If a treasurer serve two years and is re-appointed, he must execute a new bond.

(3) If a treasurer resign, or is removed, and a new one is appointed, he must execute a bond.

(4) Every bond must have at least two responsible freeholders as securities, which securities shall not be members of the board of trustees.

(5) Every bond must be approved and accepted by at least two members of the board of trustees.

(6) The penalty of every bond must be a least twice the amount of the moneys, notes, mortgages and effects, in the custody, or to be in the custody, of the township treasurer.

(7) Every township treasurer's bond must be in the form prescribed by law. [**99.**]

A reference to the above points will enable any county superintendent to determine readily and surely the character and condition of every bond on file in his office, or that may be delivered to him, and to govern himself accordingly.

But the fact that a township does not have a duly qualified treasurer at the time when the apportionment is made by the county superintendent, does not make it the duty

of the county superintendent to omit the township in the distribution. He must include such township and apportion to it its share, but hold the money until the township has a duly qualified treasurer to whom it may be lawfully paid. That is, this provision of the law is not a penalty to be enforced, but a means for the protection of both the county superintendent and the township, so that neither may suffer loss through a payment to an irresponsible person.

4. *Township Treasurers to Call for Funds.* It is the duty of township treasurers to *call* upon the county superintendent for the funds due their respective townships, upon being duly notified that the same are ready for distribution.

27. Loans of county fund. § 21. The county superintendent may loan any money, not interest, belonging to the county fund, or to any township fund before the same is called for, according to law, by the township treasurer, at the same rate of interest, upon the same security and for the same length of time as is provided by this act in relation to the township treasurers, and apportion the interest as provided in the preceding section; and notes and mortgages taken in the name of the "county superintendent" of the proper county are hereby declared to be as valid as if taken in the name of "trustees of schools" of the proper township, and suits may be brought in the name of "county superintendents," on all notes and mortgages heretofore or hereafter made payable to the county superintendents.

Loans—Securities. When the county superintendent sells sixteenth section lands for any school township he may loan the purchase money to the buyer, [257], taking a note and mortgage running to the "county superintendent"; or if the purchase money is paid in, he may loan it, if he have opportunity to do so before it is called for by the township treasurer, taking papers running to the "county superintendent." The last part of the section makes such papers of the same validity as if taken in the name of the "trustees of schools" who have been made the corporate school officers for the school townships. [33]

28. Controversies—Appeal to state superintendent. § 22. In all controversies arising under the school law,

the opinion and advice of the county superintendent shall first be sought, whence appeal may be taken to the state superintendent of public instruction upon a written statement of facts certified by the county superintendent.*

See **4**, *note* (*e*).

29. Delivery to successor. § 23. The county superintendent, upon his removal or resignation, or at the expiration of his term of office (or in case of his death his representatives) shall deliver over to his successor in office on demand, all moneys, books, papers and personal property belonging to the office or subject to the control or disposition of the county superintendent.

Records, etc., to be turned over to Successor. The books and papers named should include all the official records of the office, books of account, vouchers, treasurers' reports, duplicate county superintendents' reports and office copies of the state superintendents' reports; also such other books as may have been purchased or donated for office use, and all correspondence of an official character and permanent value. The official accounts, records, etc., should be carefully written up to the close of the term and all balances stated, so that the incoming officer may readily see the condition of each fund and of all official business. No feeling of disappointment over a failure of re-election, or of jealousy of a successful opponent, and no lack of interest in an office to be vacated, will lead a right-thinking man to close up his official work otherwise than in a creditable way. [*Sec.* 216, *Chap.* 38, *Rev. Statutes.*]

ARTICLE 3.

TOWNSHIPS—TRUSTEES OF SCHOOLS.

§ 1. School township.
§ 2. Fractional townships consolidated
§ 3. School business of the township.
§ 4. Trustees a body politic.
§ 5. Annual election.
§ 6. Term of office.
§ 7. Age, residence and eligibility.
§ 8. Notice of election, and form of election notice.
§ 9. Election in certain cases to be held on any Saturday, and notice to be given by county clerk.
§ 10. Trustees draw lots for their terms of office in certain cases.
§ 11. Judges of election.
§ 12. Qualification of voters.
§ 13. Conduct of elections; contesting elections; polls may be closed at 4 p. m.
§ 14. Judges may postpone election.
§ 15. County superintendent to order election.
§ 16. Vacancies.
§ 17. Tie at an election.
§ 18. More than one polling place: canvassing the returns and making out a certificate.
§ 19. Election when township is same as town.
§ 20. Poll book; failure to deliver the same.

* Form No. 6.

§ 21. County clerks to furnish list of trustees elected at town meetings.
§ 22. Organization; appointment of president and treasurer.
§ 23. Term of office of president and treasurer; their removal.
§ 24. Record of proceedings.
§ 25. Meetings of trustees and quorum
§ 26. Distribution to districts; basis of the same.
§ 27. Funds placed to the credit of districts.
§ 28. Report to county superintendent; items; forfeiture for failure to report.
§ 29. Separate enumeration; statistics not divisible.
§ 30. Examination of township treasurer's books, etc., by trustees.
§ 31. Gifts, grants, etc.; title of school houses.
§ 32. Sale of school house; form of notice of sale.
§ 33. Conveyances of real estate; how made.
§ 34. Township treasurer custodian of bonds; power to remove or sue that official.
§ 35. Power to purchase real estate in satisfaction of judgments.
§ 36. Power to make settlements.
§ 37. Power to lease land, or sell at public auction.
§ 38. Township high school, and form of notice for high school election.
§ 39. Ballots for high school election;
§ 40. Election for members of township board of education; term of office; vacancies; organization of the board, and establishment of the school.
§ 41. Powers of township board of education.
§ 42. Parts of two or more townships may join in establishing a high school.
§ 43. Discontinuance of township high school.
§ 44. Canvass of ballots, and disposition of assets.
§ 45. Interest in school books; penalties.
§ 46. Districts in newly organized townships.
§ 47. Changes in district boundaries.
§ 48. Who may petition.
§ 49. Vote in districts with 1,000 or more inhabitants.
§ 50. Filing of the petition; notice to the districts and form of notice.
§ 51. Territory lying in two or more townships.
§ 52, Adjournment of the board.
§ 53. Acting upon the petition.
§ 54. Appeal and form of notice.
§ 55. Clerks transmit papers to the county superintendent.
§ 56. Appeal in case of territory divided by county lines.
§ 57. Filing map and list of tax-payers
§ 58. District with a bonded debt.
§ 59. Election in new districts and form of notice.
§ 60. Conduct of election.
§ 61. Organization of board.
§ 62. Election in districts organized by action of the county superintendent.
§ 63. Distribution of funds.
§ 64. Appraisement of property.
§ 65. Liability of trustees in reference to distribution of funds.
§ 66. Liability of clerk.
§ 67. District failing to have school for two years.
§ 68. Dissolution of union district.
§ 69. Successors to trustees of school lands.

30. School township. SECTION 1. Each congressional township is hereby established a township for school purposes.

1. *No Connection with Civil Towns.* Except as provided in this section and in **250**, alterations of school townships may not be made by the boards of trustees or by the voters resident in the territory concerned. The civil towns as established in "counties under township organization" having nothing to do with school townships. [*Greenleaf* v. *Trustees*, 22 Ill., 236.]

2. *Division of a township by legislature.* If a part of a township is set off by the legislature to another township, and no provision is made in the act for a division of the township fund, no division can be made. [*People* v. *Trustees*, 86 Ill., 613.]

31. Fractional townships. § 2. Whenever any fractional township contains less than forty persons under

twenty-one years of age, the trustees thereof, upon petition of a majority of the adult inhabitants of such fractional township, may, by written agreement entered into with the board of trustees of any adjacent township, consolidate the territory, school funds and other property of such fractional township with such adjacent township, and thereafter shall cease to exercise the functions of school trustees for such fractional township; and such territory, school funds and other property, aforesaid, shall thereafter be managed by the board of trustees of such adjacent and consolidated township, in accordance with the terms of agreement aforesaid, in the same manner as is, or may be provided by law, for the management of territory, funds and other property of school townships; *Provided*, that the said written agreement shall be duly signed by a majority of the said trustees and filed for record by the said trustees in the office of the county clerk of the county in which such consolidated township, or the greater part thereof, is situated.

32. Business of school township. § 3. The school business of the township shall be done by three trustees, to be elected by the legal voters of the township as hereinafter provided for.

33. Trustees of school a body corporate and politic. § 4. Said trustees shall be a body politic and corporate, by the name and style of "trustees of schools of township No..... range No....." according to the number. The said corporation shall have perpetual existence; shall have power to sue and be sued, to plead and be impleaded in all courts and places where judicial proceedings are had.

Board of Trustees a Corporation—Its Purposes—Relations to the State. The board of trustees of schools created by this section is a *quasi* corporation, established for school purposes and no other, and deriving its powers solely from the statute. [*People* v. *Trustees*, 78 Ill., 136.] The relation of the state to the trustees is thus defined by the supreme court: No act of the general assembly has ever granted the title to the school property and fund irrevocably to any body of persons. They have created corporate bodies to handle and control the fund for the use of the people, but that body has not parted with the power to control the fund in any mode they may choose for the use of schools. They could, if disposed, deprive those to whom its management is intrusted of the fund,

and intrust it to others. Whilst the increase of the fund should be expended in the support of schools, the manner or the agency employed may be at all times controlled or changed by the state at pleasure. The state is virtually a trustee of the fund for the use of the people, and the municipalities and officers are but the agencies employed by the state in executing its trust. [*City of Chicago* v. *People* 80 Ill., 384.]

34. Election of Trustees. § 5. The election of trustees of schools shall be on the second Saturday in April, annually.

35. Term of Office. § 6. At the first regular election of trustees, after the passage of this act, a successor to the trustee, whose term of office then expires, shall be elected, and thereafter one trustee shall be elected annually. Said trustees shall continue in office three years, and until their successors are elected and enter upon the duties of their office.

36. Eligibility. § 7. No person shall be eligible to the office of trustee of schools unless twenty-one years of age, and a resident of the township. And where there are three or more school districts in any township, no two trustees shall reside, when elected, in the same school district, nor shall a person be eligible to the office of trustee of schools and school director at the same time.

1. *Eligibility.* It is provided in that school treasurer may not be either a trustee or a director. [**51.**] When a part of a township has been made a special district, and so excluded from the jurisdiction of the trustees of schools it has been held by a circuit court that the voters of that district could not vote for school trustees of the township. But, even in such a case, a resident of the special district is eligible to the office of trustee, for he is a resident of the township; the treasurer, also, may be resident of the special district.

That a man may vote at a township school election, one requisite is that he must have been a resident of the state one year next prior to the election. He must have the same qualification to be elected trustee; and, in addition, he must be, *bona fide*, a resident of the township at the time of the election. But residence in the township for thirty days prior thereto, and for ninety days in the

county, are not conditions of eligibility to the office, as they are of voting.

2. *Office not vacated.* A trustee does not vacate his office by moving, after his election, into a district in which another trustee resides.

3. *May be a Teacher.* The school trustee may be a teacher in his township; the two positions are not incompatible.

4. *A Borrower of Township Funds is Eligible.* A borrower of the township school fund is eligible to the office of trustee; but see **101**, *note* 7.

37. Notice of Election. § 8. Notice of the election of school trustee shall be given by the township treasurer, upon the order of the trustees of schools; by posting notices of such election, at least ten days previous to the time of such election, in not less than five of the most public places in said township, which notices shall specify the time and place of election and the object thereof, and may be in the following form, viz:

Public notice is hereby given that on Saturday, the.....day of April, A. D. ....., an election will be held at....., between the hours of.....and .....of said day, for the purpose of electing .....school trustee for township No ....., range No..... By order of the board of trustees of said township.

Signed.....*Township Treasurer*

Time and Place of Election—Notice. The time and the place of an election are essential matters, and inasmuch as the law, while naming the day for the election, does not fix the time during the day definitely, and in no way determines the place, a notice which shall name with exactness both the time and the place is a condition precedent of a valid election of a school trustee. The day of posting the notices, but not the day of the election, may be counted to make the ten days, during which the notices must be up, prior to the election.

The notice must state what is to be done at the election.

38. First election. § 9. In townships where no election for school trustees has heretofore been held, or in townships where, from any cause, there are no trustees of schools, the election of trustees of schools may be holden on any Saturday, notice thereof being given as required by section 8 of this article. The first election in such townships shall be ordered by the county clerk of the county, who shall cause notice to be given as aforesaid.

39. Subsequent elections. § 10. In case of an election held, as required by the preceding section, the trustees elected, at their first meeting, shall draw lots for their respective terms of office for one, two and three years; and thereafter one trustee shall be elected annually, at the usual time for electing trustees, to fill the vacancy occurring. At all elections after said first election, the said notice shall be given by the trustees of schools, through the township treasurer, as in other elections for trustees.

40. Judges of election. § 11. The trustees of schools of incorporated townships present shall act as judges, and choose a person to act as clerk of said election. If the trustees (or any of them) shall fail to attend, or refuse to act when present, the legal voters present shall choose from their own number such additional judges as may be necessary. In any township lying within the limits of a city, village or incorporated town, which has adopted the provisions of "An act regulating the holding of elections, and declaring the result thereof in cities, villages and incorporated towns in this state," approved June 19, 1885, the said election shall be held under the provisions of said act. In unincorporated townships, the qualified voters present shall choose, from amongst themselves, the number of judges required to open and conduct said election.

Judges and Clerks to be sworn—Not paid. That the election may be conducted in a lawful manner, the judges and clerk should be sworn. The oath may be administered by any justice or judge if present; if none is present the judges and clerk may administer the oath to each other. Neither the trustees acting as judges nor voters chosen to act as judges receive any pay therefor. But see **311.**

41. Voters. § 12. No person shall vote at any school election held under the provisions of this act; unless he possesses the qualifications of a voter at a general election.

1. *Township a Voting Precinct.* For the purposes of this election, the township constitutes a voting precinct, and the general law in regard to residence as a qualification of a voter applies—the year next prior to the election in the state, ninety days in the county and thirty days in the precinct. But when a township is divided by a county line, the state superintendent rules, with the approval of the attorney general, that a man does not lose his right to vote by moving across the county line, but not out of the township, within ninety days prior to the election.

The same rule is applicable to elections in school districts lying in two counties.

2. *Residence of Voter.* A permanent abode is necessary to constitute residence within the meaning of our election laws. But a residence is not lost until a new one is acquired; and a removal for several months, when no new residence is acquired, is held not to forfeit residence for the purpose voting. [*Rev. Statutes*, Ill., § 66, chap. 46; *Wilkins* v. *Marshall*, 80 Ill., 74; *City of Beardstown* v. *City of Virginia* 81 Ill., 541.]

42. Conducting election. § 13. The time and manner of opening, conducting and closing said election, and the several liabilities appertaining to the judges and clerks and to the voters, separately and collectively, and the manner of contesting said election, shall be the same as prescribed by the general election laws of this state defining the manner of electing magistrates and constables, so far as applicable, subject to the provision of this act; *Provided* that said election may commence, if so specified in the notice, at any hour between the hours of eight (8) o'clock a. m. and one (1) o'clock p. m., and the judges may close such election at four (4) o'clock p. m.

1. *Voting by Ballot—Ballots must be Specific.* The voting must be by ballot. If there are two trustees to be elected, one for a full term and one to fill a vacancy, the ballots should show plainly which of the persons named thereon is to hold the full and which the short term. For example:

"For full term,
John Smith,"
"For short term,
Henry Williams."

Failing to make the ballots specific leads to confusion; for if there are two names on a ballot and neither is named far a particular term, the will of the voter can not be ascertained from the ballot. If the respective terms of office are not so designated on any of the ballots, then the judges may determine by lot, on the day of the election, which of the two men receiving the highest number of ballots shall take the long and which the short term. But if any the ballots cast are specific, they alone must be counted, to the exclusion of the others which are not

specific; and the election must be given to the men receiving the highest number of votes on ballots specifying the term on their face.

2. *Challenges—Rejection of Votes.* But the judges or voters may challenge the right to vote of persons not known to be voters, and the person challenged must swear in his vote. The penalties for swearing in a vote illegally, or for voting illegally at a general election, apply also to the same offenses at a school election.

Any judge or clerk of a school election who shall knowingly admit any person to vote who is not qualified by law, is liable to punishment by fine, etc. But when a vote is tendered, and the voter, being challenged, complies with the requirements of the law in such cases made and provided, the judges have no discretion, but must receive the vote, unless it is proved, to the satisfaction of a majority of the judges, that the voter has sworn falsely. [*Spragins* v. *Houghton*, 2 Scam., 377.]

3. *Making up the Return.* The clerk of the election must keep a poll-book, and, when the judges and the clerk count the vote, they should make up a tally sheet and should set down in the poll-book the names of the candidates with the offices for which they received votes, recording the number of votes, and should certify to the same over their signatures. They should also publicly announce the result of the election.

4. *Highest Candidate Ineligible.* If it should prove that the candidate who received the highest vote was ineligible, there must be a new election; the next highest candidate cannot take the office.

5. *Ballots more than Names—Reverse.* If the number of ballots is greater than the number of names on the poll-book, the excess of ballots must be destroyed, as directed in the general election law. [§ 57, *Chap.* 46, *Rev. Stat. Ill.*] The reverse sometimes happens. Where the names of the voters recorded by the clerk exceed the number of ballots found in the box, the judges in that case should be governed by the ballots, and certify to the election of the man who received the highest vote.

6. *When the Judges have adjourned.* When the board of judges has discharged its functions and dissolved, it has ceased to exist, and the members can not come together and constitute the board again for the performance of omitted duties. If the board has adjourned leaving the election a tie, there must be a new election.

7. *Informalities in Elections.* If an election is actually held on some other day than that fixed by law, or with some informality in the election, having been ordered and acquiesced in by the former officers, the acts of officers so elected, holding their offices under color of right, are valid so far as third parties and the public are concerned, until the election is legally contested and set aside. A mere irregularity in conducting an election, which deprives no legal voter of his vote, and does not change the result, does not invalidate an election. The legality of an election does not depend upon the declaration of the board of election; if such declaration is withheld, or not made through illegal causes, the office will vest nevertheless, for the authority, rights and powers of officers are derived from the election, and not from the returns. In contested elections, the intention of the voters in casting their ballots should control; and effect must be given to that intention. To defeat an election on the ground that the polls were not duly opened and closed, it must be shown that the irregularity affects enough votes to change the result of the election. [*People* v. *Kilduff*, 15 Ill., 492; *People* v. *Matteson*, 17 Ill., 167; *Piatt* v. *People*, 29 Ill., 54.]

8. *Contest.* A contest must be brought before the county judge, as provided in § 98, *Chap.* 46, *Rev. Stat. Ill., Elections.* [*Simons* v. *People*, 18 Ill. App. (18 Brad.), 588.]

43. Postponement of election. § 14. If, upon any day appointed for the election of trustees of schools, the said trustees of schools or judges shall be of opinion that, on account of the small attendance of voters, the public good requires it, or if the majority of the voters present shall desire it, they shall postpone said election until the next Saturday, at the same place and hour; at which time and meeting the voters shall proceed as if it were not a postponed or adjourned meeting: *Provided*, that if notice shall not have been given of such election, as required by section 8 of this article, then and in that case said elec-

tion may be ordered as aforesaid, and holden on any other Saturday, notice thereof being given as aforesaid.

Postponement. In order that the postponement of an election for a school trustee may be legally effected, either an adjournment must be made, on their own motion for cause, by the trustees acting, *ex officio*, as judges of the election, or by the judges chosen in their place by the voters, [40]; or it must be made by the judges at the request of a majority of the voters present. That is, there must be a formal organization to conduct the election, and a subsequent formal adjournment. Informal action by voters present, without organization, will not preclude the voters who may go to the place of election, from organizing later in the day and holding a legal election; nor will it suffice to carry over the election to the next Saturday, so that a legal election may be held then. In case of an adjournment, the judges should post a notice of it at the place of meeting. [*People* v. *Brewer*, 20 Ill., 474.]

44. Election called by county superintendent. § 15. If the township treasurer shall fail or refuse to give notice of the regular election of trustees, as required by said section 8 of this article, and if, in case of a vacancy, the remaining trustee or trustees shall fail or refuse to order an election to fill such vacancy, as required by section 16 of this article, then, and in each of such cases, it shall be the duty of the county superintendent to order an election of trustees to fill such vacancies as aforesaid; and all elections so ordered and held shall be valid to all intents and purposes whatever.

1. *Province of County Superintendent in calling Elections.* When by failure of the proper officer to call an election it becomes the duty of the county superintendent to call it, all that is required of him is to post the notices of the election in the manner prescribed in the law. The election will then be held and conducted in the usual way.

2. *Election ordered by County Superintendent in Township in two Counties.* In townships divided by county lines, the election may, if practicable, be ordered by the two superintendents jointly. If this can not be done, the election may be ordered by the superintendent of the county in which the sixteenth section of such township is situated.

The election can not be allowed to go by default through supposed lack of jurisdiction on the part of the respective superintendents. The foregoing rule, in such emergencies, is sustained by the principle recognized in the last clause of **58**, and is the only perceivable mode of procedure in such cases.

45. Vacancy. § 16. When a vacancy or vacancies shall occur in the board of trustees of schools, the remaining trustee or trustees shall order an election to fill such vacancy, upon any Saturday, notice to be given as required by said section 8 of this article.

1. *Resignation—Vacancies.* Regarding resignations and vacancies, sections 124 and 125, Rev. Stat. Ill., have the following:

"Resignations of elective offices shall be made to the officer, court or county board authorized by law to fill a vacancy in such office by appointment, or to order an election to fill such vacancy.

Every elective office shall become vacant on the happening of either of the following events, before the expiration of the term of such office:

First—The death of the incumbent.

Second—His resignation.

Third—His becoming insane.

Fourth—His ceasing to be an inhabitant of the state; or, if the office is local, his ceasing to be an inhabitant of the district, county, town or precinct for which he was elected.

Fifth—His conviction of an infamous crime, or of any offense involving a violation of official oath.

Sixth—His removal from office.

Seventh—His refusal or neglect to take his oath of office, or to give or renew his official bond, or to deposit or file such oath or bond within the time prescribed by law. [*As to official oath see* **51**, *note* 3.]

Eighth—The decision of a competent tribunal declaring his election void."

On filling vacancies, *see* **48**, *note.*

On resignation, *see* **14**, *note.*

2. *Vacancies to be filled.* It is provided in **35** that school trustees shall continue in office until others are elected and enter upon the duties of their office; but the last part of this section shows clearly that it is not the intention of

the law that they should "hold over." It is the purpose of the law that all vacancies in the board shall be promptly filled.

46. Tie. § 17. In case of a tie vote at any election of trustees of schools, the election shall be determined by lot, on the day of the election, by judges thereof.

Plurality—Tie. A plurality of votes elects; a tie vote must be settled by the judges on the day of the election, as provided in the next section.

47. Two or more polling places. § 18. In townships where, for general elections, there are more than two (2) polling places, the trustees shall give notice that polls will be opened for such elections in at least two places; in which case at least one of said trustees shall attend at each of said places, and additional judges shall be chosen as provided in section eleven (11) of this article; *Provided*, there shall be at least one polling place for each eight hundred legal voters in said township. Should the polling places be in excess of the number of trustees, then the voters at such polling places so in excess shall select from their number the requisite number of voters, who shall act as judges of said election in the manner provided by said section eleven (11) for the election of trustees in unincorporated townships. Said judges shall return the ballots and original poll-books, with a certificate thereon, showing the result of the election in said precinct, to the township treasurer of the township in which said election shall be held, whereupon it shall be the duty of the board of trustees of said township, within five days after said election, to meet and to canvass the returns from each precinct, to make out a certificate showing the number of votes cast for each person in each precinct, and in the whole township, and shall file said certificate with the county superintendent of schools as otherwise provided by law.

48. Election when school and civil townships are identical. § 19. In counties adopting township organization, in each and every township whose boundaries coincide and are identical with those of the town, as established under the township organization laws, the trustee or trustees shall be elected at the same time and in the same manner as the town officers. In all such townships, if no trustees are elected at the stated town meeting, and when vacancies occur in the board, an election of trustee or trustees shall be ordered by the remaining trustee or

trustees of schools, through the township treasurer, as provided for in section nine (9) of this article.

At Town Meeting. The election of a township trustee or trustees at the town meeting must be pursuant to notice by the town clerk and by the same ballots as the other officers. A vacancy existing at the time of this election may be filled then.

49. Filing poll-book—Penalty. § 20. Upon the election of trustees of schools, the judges of the election shall, within ten (10) days thereafter, cause a copy of the poll-book of said election to be delivered to the county superintendent of the county, with a certificate thereon showing the election of said trustees and the names of the persons elected; which copy of the poll-book, with the certificate, shall be filed by said superintendent, and shall be evidence of such election.* For a failure to deliver said copy of the poll-book and certificate within the time prescribed, the judges shall be liable to a penalty of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) to be recovered in the name of the People of the State of Illinois, by action of assumpsit, before any justice of the peace of the county; which penalty, when collected, shall be added to the township school fund of the township.

1. *Failure to make Return.* A failure on the part of the judges to deliver a copy of the poll-book to the county superintendent, as required, makes the judges liable to the penalty prescribed for such failure; but it does not invalidate the election. The title to the office rests upon the fact of the election, not upon the fact that certain evidence of that election has been preserved in a certain way.

2. *Poll-book is Evidence.* The copy of the poll-book filed with the county superintendent is evidence of the election. But if it should be lost, other evidence may be taken to support the election; and the evidence of the poll-book even may be rebutted.

3. *The County Superintendent Custodian only of the Return.* The return of the election is filed with the county superintendent, whose duty it is simply to receive it and keep it on file. He has no power to pass upon the return and reject it, or to declare the election void. He may point out any corrections needed in the return; but when

* Forms Nos. 8, 9 and 10.

the election has been held and some one declared elected, that person may enter upon his office, and any questions as to the legality of his election must be settled by a contest or by *quo warranto* proceedings, unless he consents that they be settled otherwise.

50. Names given to county superintendent. § 21. When school trustees are elected at town meetings, as provided in section nineteen (19) of this article, it shall be the duty of the county clerk, as soon as the list of the names of officers elected at the town meetings is filed with him, to give the county superintendent a list of the names of all school trustees elected at the town meetings of the county, and of the towns for which they are elected.

51. Organization of board. § 22. Within ten days after the annual election of trustees the board shall organize by appointing one of their number president, and some person who shall not be a director or trustee, but who shall be a resident of the township, treasurer, if there be a vacancy in this office, who shall be, *ex officio*, clerk of the board.

1. *Organization.* The duty of the trustees to meet within ten days after the election and effect an organization, so that the board may be ready for the transaction of any business, is clearly stated in the law; but the trustees do not, by neglecting this duty, vacate their offices, so that another election must be called to fill them. The trustees failing to meet and organize, as directed by the law, are liable to a fine therefor **[284]**; but the organization may be made after the ten days have elapsed.

2. *Appointment of Treasurer.* By amendment of this section, made in 1879, the treasurer's term of office was lengthened from one year to two years, and the time for the first appointment, under the law as amended, was held to be at the meeting for organization after the election in April of 1880. It was also held that the term was fixed at two years; that the man appointed to fill a vacancy occurring any time during the two years would hold for the unexpired term, and that the board must regularly appoint a treasurer at its meeting for organization after the election in April of each even-numbered year. This ruling was made with the approval of the attorney-general.

Boards of trustees have sometimes made the appointment of a treasurer at the regular meeting in April, occurring on the first Monday; but this may not be done lawfully except in townships in which the trustee has been elected at a town meeting held before the first Monday. In such a case the first duty at the regular meeting would be to organize the board, which would, in even-numbered years, include appointing a treasurer. In all other cases, the meeting for organization, and, consequently, for appointment of the treasurer, must come subsequent to the regular meeting.

3. *Oath of Office not required.* The supreme court has held that a township treasurer need not take an official oath upon assuming his office; and the rule as laid down by the court exempts also school trustees, school directors, and members of boards of education. [*Directors* v. *People*, 79 Ill., 511.] This opinion of the supreme court seems to have been overlooked by the Appellate Court of the First District in *Simons* v. *People*, 18 Ill. App. (18 Brad.), 588.

52. Term of president and treasurer. § 23. The president shall hold his office one year, and the treasurer for two years, and until their successors are appointed; but either of said officers may be removed by the board for good and sufficient cause.

53. Duties of president—Records. § 24. It shall be the duty of the president to preside at all meetings of the board; and it shall be the duty of the clerk to be present at all meetings of the board, and to record in a book to be provided for the purpose all of their official proceedings, which book shall be a public record, open to the inspection of any person interested therein. All of said proceedings when recorded shall be signed by the president and clerk. If the president or clerk shall be absent or refuse to perform any of the duties of his office at any meeting of the board, a president or clerk *pro tem* may be appointed.

Records. Many matters of importance go into the records of trustees. Hence they should be kept accurately and in permanent form. Furthermore, the record is the proper evidence of what the board has done.

54. Meetings. § 25. It shall be the duty of the board of trustees to hold regular semi-annual meetings on the first Mondays of April and October, and special meetings

may be held at such other times as they think proper. Special meetings of the board may be called by the president or any two members thereof. At all meetings two members shall be a quorum for business.*

1. *Trustees must act at Meetings.* A corporation, such as the board of township trustees of schools is **[33]**, acts lawfully only when assembled in its corporate capacity. The members of the body, acting independently, cannot bind the corporation; nor does the assent of a majority, or even of all the members of the board, to any proposition bind the corporation, if that assent is given by the members separately, without the coming together of the board. Regular meetings may be provided for by a rule of the board. Special meetings may be called, as provided in the law. Any mere coming together of two members of the board, without previous arrangement, is not such a special meeting as is meant by the law. It is true that two members of the board constitute a quorum for the transaction of business, but when two happen to meet, business of the district cannot lawfully be transacted. The *call* that is required implies something more. It is not held that there need be any great formality about the call of a special meeting; but either the president must *call* it, or two members must agree to *call* it; and the members of the board—all of them if practicable—must have reasonable notice of the time and place. So much, at least, is essential; and any attempt on the part of two members of a school board to ignore the third member in the transaction of business, which goes to the extent of not making any effort to give him notice of a special meeting, will make such meeting illegal, if held in his absence. [*Directors* v. *Jennings*, 10 Ill., App. (10 Brad.), 643; *Stewart* v. *Directors*, Ill., App. (Smith), 229; *State* v. *Treasurer*, 22 Ohio St., 144; *Aikman* v. *School District*, 27 Kan., 129; *District* v. *Padden*, 89 Pa. St., 395; *Hazen* v. *Lerche*, 47 Mich., 626; *Townsend* v. *Trustees*, 41 N. J. L., 312; *People* v. *Peters*, 4 Neb., 254.]

2. *Quorum.* At all the meetings of the board two members constitute a quorum, and may transact any business

* Form No. 11.

which is properly before it and within the scope of its official duty. Public agents may act by majorities, provided all are present, or have proper notice to be present. [*Schofield* v. *Watkins*, 22 Ill., 66.] It has been claimed that this case warrants the conclusion that business may be done or a contract made by two members concurring, without there being a meeting of the corporate body. But a careful reading of the opinion shows that it goes to the extent only, that a meeting of the board will be presumed, whenever a majority of the board acts, until the contrary appears; that the act of a majority must be attacked in some direct proceeding, if at all, and that it cannot be called in question in a collateral proceeding. The only safe rule for a board to follow has been stated above. But the object of giving a notice to a member is that he may attend. If, therefore, it is known that the third member of a board is away at such a distance that he cannot be reached by a notice in time for the meeting, a failure to notify him would not invalidate the meeting. [*Ibid.*; *Porter* v. *Robinson*, S. C. Reports, N. Y., Hun 30, 209.]

55. Apportionment. § 26. At the regular semi-annual meetings on the first Mondays of April and October, the trustees shall ascertain the amount of state, county and township funds on hand and subject to distribution, and shall apportion the same as follows: (*a*)

First—Whatever sum may be due for the compensation and the books of the treasurer, and such sum as may be deemed reasonable and necessary for dividing school lands, making plats, etc. (*b*)

Second—And the remainder of such funds shall be divided among the districts, or fractions of districts, in which schools have been kept in accordance with the provisions of this act and the instructions of the state and county superintendents during the preceding year ending June 30, in proportion to the number of children under twenty-one (21) years of age in each. (*c*)

(*a*) 1. *Distribution of Funds—Days of.* The duty of distributing funds, together with that of hearing petitions, makes the regular meeting in April one of great importance. It should be held without fail upon the day named; but if trustees fail to meet that day, they must not let the

distribution of funds go over till the October meeting; a special meeting must be called at once and the distribution made.

2. *Additions to Township Fund—Distributable Fund not to be loaned.* As to power to add a part of the distributable funds to the township fund, see **111;** but no part of the distributable fund, as such, may be loaned.

(*b*) *Treasurer's Salary—Expenses.* The treasurer's salary and all the incidental expenses of the office come out of distributable fund. The trustees are allowed some compensation for dividing school lands, making plats, and for other services connected with the sale. But they do not receive any compensation for the performance of other duties, unless the exemptions named in **298** be regarded as a compensation.

(*c*) 1. *Condition of Sharing Funds.* The condition of sharing in the funds distributed by the trustees in October and April is that the district has had, for the year ending June 30th prior thereto, a legal school. Of this fact the schedules or statements filed are the evidence in part.

Among the provisions of law in accordance with which schools must be kept, in order that they may be legal schools within the meaning of the statute, are the following:

(1) The children of the district must be accommodated, to a reasonable extent at least, with school privileges. [**146**, *fifth.*]

(2) The schools must be in session at least one hundred and ten days in each year. [**146**, *fifth.*]

(3) The teachers must have legal certificates in force for the whole term taught. **[189.]**

(4) The schools must be for the purpose of instruction in the branches prescribed and permitted by law, and in no others. **[190.]**

(5) The schools must not be sectarian in their character. **[286.]**

2. *Forfeiture.* If it is within the knowledge of the trustees that in any district these provisions of the law have not been complied with, then the trustees must exclude such district from the distribution, and the whole amount

on hand for distribution must be given to the other districts.

But a district just organized must not be excluded.

3. *Basis of Distribution.* The basis of distribution is the minor population. [**26**, *note* 2.]

56. Funds credited. § 27. The funds thus apportioned shall be placed on the books of the treasurer to the credit of the respective districts, and the same shall be paid out by the treasurer on the legal orders of the directors of the proper districts in the same manner as other funds of the district are paid out.

1. *Funds credited to Districts.* As soon as the distribution has been made, the treasurer should enter up to their credit the amounts apportioned to the several districts.

2. *Overpayment of a District.* In case a township treasurer overpays a district, through inadvertence or otherwise, and the fact of such overpayment is apparent from the records, said treasurer, or his successor, may retain the amount so overpaid from the first funds due, or to become due, said district, and apportion the same to the other districts of the township, to which it of right belongs, making the proper entry in his books.

3. *Funds of Townships lying in two Counties.* When a township lies partly in two or more counties, and the treasurer receives public money from the superintendent of each county, the funds so received should be merged and treated as one common fund. It is clear from **55** that in the distribution of the state, county and township funds, every township is to be taken as a unit, and the distribution must be made to all the districts which have had schools according to law, without regard to county lines. Trustees cannot cause the portion of the county fund received from each superintendent to be expended exclusively in that part of the township which lies in the county of that superintendent, but must make one common fund of the amount so received, and distribute as aforesaid. The apportionment being made under one uniform state law, the accidents of county lines are not to be taken into the account.

57. Statistical report. § 28. The board of trustees of each township in this State shall prepare, or cause to be prepared, by the township treasurer, the clerk of the

board, the directors of the several districts, or other person, and forwarded to the county superintendent of the county in which the township lies, on or before the 15th day of July, preceding each regular session of the general assembly of this state, and at such other times as may be required by the county superintendent, or by the state superintendent of public instruction, a statement exhibiting the condition of schools in their respective townships for the preceding biennial period, giving separately each year, commencing on the first of July and ending on the last day of June, which statement shall be as follows:

First—The whole number of schools which have been taught in each year; what part of said number have been taught by males exclusively; what part have been taught by females exclusively; what part of said whole number have been taught by males and females at the same time, and what part by males and females at different periods.

Second—The whole number of scholars in attendance at all the schools, giving the number of males and females separately.

Third—The number of male and female teachers, giving each separately; the highest, lowest and average monthly compensation paid to male and female teachers, giving each item separately.

Fourth—The number of persons under twenty-one years of age, making a separate enumeration of those above the age of twelve years who are unable to read and write, and the cause or causes of the neglect to educate them.

Fifth—The amount of the principal of the township fund; the amount of interest of the township fund paid into the township treasury; the amount raised by *ad valorem* tax, and the amount of such tax received into the township treasury, and the amount of all other funds received into the township treasury.

Sixth—Amount paid for teachers' wages; the amount paid for school house lots; the amount paid for building, repairing, purchasing, renting and furnishing school houses; the amount paid for school apparatus, for books and other incidental expenses for the use of school libraries; the amount paid as compensation to township officers and others.

Seventh—The whole amount of the receipts and expenditures for school purposes, together with such other statistics and information in regard to schools as the state superintendent or county superintendent may require. And any township from which such report is not received in the manner and time required by law, shall forfeit its portion of the public fund for the next ensuing year; *Provided,*

that upon the recommendation of the county superintendent, or for good and sufficient reasons, the state superintendent may remit such forfeiture.

1. *Trustees to make Reports—Penalties and Liabilities.* The obligation to make this report annually, on or before July fifteenth, is put upon the trustees. They do not discharge their duty by directing the treasurer to make it. If the county superintendent has to send some one to make the report, the trustees are liable for the expense. [24] They are also liable, under **284**. to a fine of twenty-five dollars; and if the forfeiture, provided as a penalty below, should be enforced, the trustees would be liable for the loss the township would sustain. [285] Making false returns knowingly is punishable by the heavy fine of one hundred dollars, according to **283**, and it behooves the trustees to know that the report sent in their name is accurate.

2. *Not excused by Negligence of Directors.* Trustees may not excuse themselves for not making a report by saying that directors have failed to report to them. The trustees must themselves get all the information called for, or have their clerk get it.

3. *Value of Reports.* For the value and necessity of accurate reports, see **23**, *note* 4.

4. *Forfeiture by Townships.* Blanks needed and full directions for making this report are furnished trustees some days in advance of the time for making the report, so it would seem that there can be no occasion to enforce this penalty, except in cases of refusal or willful neglect on the part of the trustees.

A forfeiture was sustained in *Pace* v. *People*, 47 Ill., 321.

58. Statistics of divided townships. § 29. In all cases where a township is, or shall be divided by a county line or lines, the board of trustees of such township shall make or cause to be made separate enumerations of male and female persons of the ages as directed by section 28 of this article, designating separately the number residing in each of the counties in which such township may lie, and forward each respective number to the proper county superintendent of each of said counties; and in like manner as far as practicable, all other statistics and information enumerated and required to be reported in the aforesaid section, shall be separately reported to the several county

superintendents; and all such parts of said statistical information as are not susceptible of division and are impracticable to be reported separately, shall be reported to the county superintendent of the county in which the sixteenth section of such township is situated.

Divided Townships and Districts. The annual report blanks sent out by the state superintendent contain full directions for reports from townships and districts divided by county lines and from union districts.

59. Examination of treasurers books, etc. § 30. At each semi-annual meeting, and at such other meetings as they may think proper, the said township board shall examine all books, notes, mortgages, securities, papers, moneys and effects of the corporation, and the accounts and vouchers of the township treasurer, or other township school officer, and shall make such order thereon for their security, preservation, collection, correction of errors, if any, and for their proper management, as may seem to said board necessary.

60. Trustees to receive gifts—To hold title to schoolhouses. § 31. The trustees of schools in each township in the state may receive any gift, grant, donation or devise made for the use of any school or schools, or library, or other school purposes within their jurisdiction; and they shall be and are hereby invested in their corporate capacity, with the title, care and custody of all school houses and school house sites; *Provided*, that the supervision and control of such school houses and school house sites shall be vested in the board of directors of the district.

1. *Title to School Property in Trustees.* The title of school houses and school sites vests in the board of school trustees, and is held by them in trust for the particular districts to which they belong. When a board of directors buys a school site pursuant to a vote of the district, it must take the title in the trustees; but the trustees have nothing to do with the purchase. The board should have the deed recorded, and file it with the township treasurer. A suit to compel the giving of a deed must be brought by the trustees, or in their name. Directors may not bring such a suit in their own name. [*Wilson* v. *Directors*, 81 Ill., 180.]

2. *District should own School Site.* A school house should never be erected upon land not owned by the dis-

trict, except in case of absolnte necessity. The law does not forbid the building of a school house upon leased ground, or where the district does not possess the fee, but it is a bad practice, and almost sure to result in trouble and loss to the district, sooner or later. No site should be voted for until it is ascertained whether a clear warranty deed can be obtained or not. If a site is voted for, and it is afterwards found that a clear title can not be obtained, it is better to select another site. It is impolitic to build and expend the money of the district upon lots in which the district has only a conditional estate, as where the lots, by the terms of the deed, revert to the former owner when they cease to be used for school purposes, etc. Where the ground upon which existing school houses stand, is in that condition, the directors should secure *quit-claims* if possible, from the makers of the deeds, so as to pass the titles which they might acquire by reversion. The property may become very valuable, and the directors may wish to change the site of the school house, in which case the land should be held by such a tenure that the district could sell and have the benefit of the proceeds for the new house and site. To secure a clear title, in fee simple, is always the best policy.

3. *No Highway to School House.* A school house is for the use of the public, and if there is no public highway to it, the school children may go across private property in going to and from school. [*Wilson* v. *Garrard*, 59 Ill., 51.]

4. *Dedication of School Site.* A dedication of land for school purposes may be implied from use for such purposes; and long continued use will give the right to the trustees to hold the land as if the dedication had been by deed. [*Davidson* v. *Reed*,, 111 Ill., 167; *Wilson* v. *Directors*, 81 Ill., 108].

Dedication of land for a school site is a dedication for a charitable purpose; and if a deed made to confirm such dedication is defective, a court of equity will supply all defects of conveyance. [*Price* v. *Directors*, 58 Ill., 432.]

5. *Lot does not revert.* A lot conveyed for school purposes does not revert when no longer used as a school site. It may be leased and the proceeds used to support

a school maintained upon another site. [*Trustees* v. *Braner* 71 Ill., 546; *Crane* v. *Hyde Park*, 135 Mass., 147.]

6. *Oral Consent by Owner—Personal Property.* If an owner of land in a school district give oral consent to the erection of a public school house thereon by the district, it will be considered the personal property of the district. [*District Township of Corwin* v. *Morehead*, 43 Ia., 466.]

7. *School House exempt from Taxation.* The public school house is exempt from taxation. [*Sec.* 2, *Chap.* 120, *Rev. Stat.*; *Ill.*, *Pace* v. *Com'rs*, 20 Ill., 644; *Constitution*, *Art.* 9, *Sec.* 3, *etc.*, *p.* 11.]

8. *Exempt from Mechanic's Lien.* School property is not liable to a mechanic's lien. [*Quinn* v. *Allen*, 85 Ill., 39; *Fatout* v. *School Com'rs*, 102 Ind., 223.]

9. *School Directors may sue for Trespass.* School directors being vested with the control and supervision of the school house, may, when in actual occupancy of a school house for school purposes, maintain an action for trespass against any unauthorized person for breaking into and entering the same. [*Alderman* v. *Directors*, 91 Ill., 179.]

10. *Burning a School House.* "Every person who shall willfully and maliciously burn or cause to be burned any * * * * * * school house * * * * * * shall be deemed guilty of arson, and upon conviction thereof shall be punished, etc., and should the life of any person be lost in consequence of any such burning, such offender shall be deemed guilty of murder, and punished accordingly. [*Rev. Stat. Ill., Crim. Code*, § 13.]

11. *Entering with Evil Intent.* "Whoever willfully and maliciously and forcibly breaks and enters, or willfully and maliciously, without force (the doors or windows being open), enters into any * * * * * * school house * * * * with intent to commit murder, robbery, etc., shall be deemed guilty of burglary, and be imprisoned, etc." [*Rev. Stat. Ill., Crim. Code*, § 36.]

12. *Disturbing a School.* "Whoever willfully interrupts or disturbs any school * * * * shall be fined, etc." [*Rev. Stat. Ill., Crim. Code*, § 60.]

13. *Defacing a School House.* "Whoever willfully and maliciously, or wantonly, and without cause, destroys, de-

faces, mars or injures any school house, * * * or any of the out-buildings, fences, wells or appurtenances of such school house, * * * shall be fined, etc." [*Rev. Stat. Ill., Crim. Code*, § 196.]

14. *Doors of School House to open outwards.* Chapter 111, Rev. Stat. Ill., provides that all school houses erected since July 1, 1874, shall be so constructed that all doors leading from the main hall, or from the principal room, sh allbe so swung upon their hinges as to open outwards; and that all means of egress from the building shall be by means of doors which shall open outwards. Section 2 further provides that any person or persons failing to comply with the above provisions shall be fined in any sum not less than $100 nor more than $1,000.

15. *Insurance.* School directors should see that their school buildings are protected, by adequate policies of insurance, against loss or damage by fire, etc., and that the policies are regularly and promptly renewed at expiration. Their right and duty to do this are unquestionable. It is a precaution which should never be omitted. The premium should be considered as a necessary incidental expense, and regularly provided for as such, under **202.** No vote of the district is required. The insurance should be written in the name of the trustees, since the title is in them. It should not be written in a company of which a member of the school board is the agent. [*Directors* v. *Parks*, 85 Ill., 338.]

16. *Care and Custody of School House and Grounds by Directors, includes What.* The guardianship and control of school houses, and of the school property of a district, are vested exclusively in the board of directors, and not in the teacher nor the inhabitants of the district; but they are vested in them only for the purposes contemplated by law. To this end they should cause the house to be painted, and trees, shrubbery and flowers to be planted, etc. Not a year should be allowed to pass without planting trees, where there are none already. Fences, gates, wells, out-houses, etc., should be kept in good condition, and both teachers and pupils held to strict account in respect to them. Directors also have full authority to purchase brooms, dust-brushes, pails, wash-bowls, shovels, tongs, ash-buckets,

scrapers, mats, clothing-hooks, etc., etc. The power of the directors to procure all these things, and any others that may be required for the complete equipment and furnishing of their schools, school houses and grounds, is clear and unquestionable. And to pay for them they may levy any rate of tax that may be necessary; no vote is required. It is also the duty of the directors to employ some one to sweep, make fires, prepare the fuel, etc., unless a different agreement is made with the teacher, or the pupils voluntarily attend to those things.

17. *Teacher not to do Janitor Work.* Unless otherwise specified in the contract, no teacher of a public school can be required to sweep, make fires, etc. It is no part of his duty, unless he agrees and contracts to do it when he is employed. These are services which have no connection whatever with his personal duties as teacher, and which he cannot, therefore, be required to perform under a general contract to teach the school. Whatever services and duties properly attach to the office of teacher, in addition to the great work of instructing and governing the school, such as preserving the house and its furniture, the fences, grounds, trees, shrubbery, etc., from injury by the pupils, may legally be required of him.

18. *Pupils not to do Janitor Work.* Neither may such services be required of pupils against their will. [*State* v. *Board of Education of Fond du Lac*, 63 Wis., 234.]

Whatever expense attends such services comes under the head of "necessary incidental expenses," and may be provided for by the directors, without a vote, under **202.**

19. *Liability of District for Injury to Pupils.* The district is not liable for injury resulting to pupils, either from the defective construction or condition of the school house, or far a dangerous condition of the school yard. [*Lane* v. *District Township of Woodbury*, 58 Ia., 462; *Finch* v. *Board of Education*, 30 Ohio St., 37; *Bigelow* v. *Randolph*, 14 Gray, 541; *McKenna* v. *Kimball*, 145 Mass., 555.]

It has been held otherwise in New York. In deciding *Bassett* v. *Fish*, 75 N. Y. App., 303, Judge Folger said: "If, in the proper discharge of their duty, they had gone to the building, and, looking for defects threatening immediate

danger, had found this hole, then they would have had actual and personal knowledge of it, and would have been in fault, if having public means to do it they had not amended it. If so going they had made so careless an inspection as not to see what was so plain, then they would have been faulty. If they did not go at all and took no heed of the liability to danger from the general and particular defects of a building in their charge, which they kept open for the use of many people, then they egregiously failed in doing their duty."

61. Sale of site. § 32. When, in the opinion of any board of directors, the school house site or any buildings have become unnecessary or unsuitable or inconvenient for a school, the board of trustees, on petition of a majority of the voters of the district, shall sell and convey the same in the name of the said board, after giving at least twenty days' notice of such sale by posting up written or printed notices thereof, particularly describing said property, and the terms of sale, which notice may be in the following form, viz:

Public notice is hereby given that on the.....day of ....., A. D. ....., the trustees of schools of township No....., range No....., will sell at public sale, on the premises hereinafter described, between the hours of ten o'clock a. m. and three o'clock p. m., the school house situated on the school house site, known as (here describe the site by its number, commonly known name, or other definite description) and located in the (here describe its place in the section), which sale will be made on the following terms, to-wit: (here insert as "one-third of the purchase money cash in hand, and the balance in two equal payments, due in one and two years from the day of the sale, with interest at the rate of..... per cent. from date."

A. B.
C. D. } *Trustees.*
E. F.

And the deed of conveyance of the property so sold shall be executed by the president and clerk of said board, and the proceeds of such sale shall be paid over to the township treasurer, for the benefit of said district.

Sale of School Property. It will be seen that in order legally to sell and convey district school property, the consent of the directors must first be had, and then, in addition, there must be a petition therefor, signed by a majority of all the legal voters of the district. When such petition, approved by the directors, is filed with the board of trustees, it then becomes their duty (and not till then) to proceed to sell and convey the property in the manner prescribed. As the title to school sites and property is in the trustees, they only have power to sell. The money received

must be paid over to the township treasurer, for the use and benefit of the district; no part of said avails should be paid to the directors, or any of them. And when notes are given by purchasers of school property, said notes should be drawn in favor of the township treasurer—not of the directors—for the use and benefit of the proper district.

62. Conveyances to trustees. § 33. All conveyances of real estate which may be made to said board shall be made to said board in their corporate name and to their successors in office.

63. Treasurer to hold all funds—Removal—Suit on bond. § 34. The township board shall cause all moneys for the use of the townships and districts to be paid over to the township treasurer, who is hereby constituted and declared to be the only lawful depositary and custodian of all township and district school funds. They shall have power also to remove the township treasurer at any time, for any failure or refusal to execute or comply with any order or requisition of said board, legally made and entered of record, or for other improper conduct in the discharge of his duty as treasurer. They shall also have power for any failure or refusal as aforesaid to sue him upon his official bond and recover all damages sustained by the said board in its corporate capacity, by reason of such neglect or refusal as aforesaid.

1. *Treasurer to hold all Funds.* The township treasurer is the lawful custodian of each of the three funds which together constitute all public school funds of the township, the permanent township fund, the distributable fund, and the district funds. Tuition-fees, money paid on transfers, taxes collected, insurance money, and money borrowed, must all go into his hands. [*Adams* v. *The State*, 82 Ill., 132.] The reason for this provision of the law is a once apparent when it is remembered that he is the only school officer in the township who gives a bond. But the treasurer may not receive for school funds or moneys anything which the law has not authorized so to be received; and if he does so and receipts for taxes on that account, he must make good the amount in case of valid objection thereto. [*Jones* v. *Wright*, 34 Mich., 371; *Lovingston* v. *Trustees*, 99 Ill., 564; *Humiston* v. *Trustees*, 7 Ill. App. (7 Brad.), 122.] But in the case last cited the directors were held to be es-

topped from demanding money of a treasurer whom they had authorized to take coupons of the collector.

2. *Trustees to enforce the Law—Cannot withdraw Funds.* It is the business of the trustees to see that the law in this regard is complied with. But township trustees have no right whatever to withdraw the bonds, notes, mortgages, moneys and effects, denominated the principal of the township fund, nor the funds subject to distribution, from the custody of the township treasurer, and deposit the same in a bank, or other place of supposed greater safety, or for any other purpose. If they do, they are individually liable in case of loss. By **111**, the treasurer, upon the execution and approval of his bond, "shall demand, receive and safely keep, all moneys, books, and papers of every description belonging to his township." Trustees "shall cause all moneys, etc., to be paid over to the township treasurer." [**63**.] The safety of the funds and effects of the township is in the sufficiency of the treasurer's penal bond, and of his securities; not in the supposed material strength of the place of deposit. The treasurer takes that risk. If trustees take an insufficient bond, or accept inadequate securities, section seventy-four makes them individually liable. They may increase the securities to any necessary extent, but they cannot withdraw the funds and papers.

3. *Trustees may remove Treasurer.* The trustees may remove the treasurer for cause. The phrase "legally made" in this connection must be held to mean made by the board when duly assembled, with a record thereof; and the order for violation of which he may be removed, must be one requiring him to do some lawful act in relation to matters pertaining to his office.

The appointment of a new treasurer and the approval of his bond is, in effect, removing the former treasurer whose term has not expired. [*Holbrook* v. *Trustees*, 22 Ill., 539.]

64. Trustees may purchase real estate. § 35. The township trustees are hereby vested with general power and authority to purchase real estate, if in their opinion the interests of the township fund will be promoted thereby,

in satisfaction of any judgment or decree wherein the said board or the county superintendent are plaintiffs or complainants; and the title of such real estate so purchased shall vest in said board for the use of the inhabitants of said township, for school purposes.

65. Trustees may make settlements. § 36. The board of trustees are hereby vested with general power and authority to make all settlements with persons indebted to them in their official capacity, or to receive deeds to real estate in compromise, and to cancel, in such manner as they may think proper, notes, bonds, mortgages, judgments and decrees, existing or that may hereafter exist, for the benefit of the township, when the interest of said township, or of the fund concerned shall, in their opinion, require it and their action in the premises shall be valid and binding.

1. *Trustees may take property in Compromise.* The power to make compromises is one to be exercised strictly, as the statute says, "when the interest of said township or the fund concerned shall, in their opinion, require it." Entire good faith is demanded of the trusters in any such transaction. [*Agnew* v. *Brall*, 124 Ill., 312.] The responsibility can be in no way lessened or divided by referring such a matter to the voters of the township. It is not a question upon which the law provides for a vote by the electors, and a vote is, therefore, of no effect. [*School District* v. *Harvey*, 56 Vt., 556.]

2. *Reference to Township Funds—Exempt from Taxation.* Reference is had to the township fund and the investment of the fund. The term "bonds" refers to school bonds held as a part of the fund, as permitted in **101**, and not to the official bond given by the township treasurer. All lands taken as a part of this fund are exempt from taxation from the time the title vests in the trustees. [*Chicago* v. *People*, 80 Ill., 384; *People* v. *Trustees*, 118 Ill., 52; *note p.* 9; *article* 9, *section* 3, *etc.*, *p.* 11.]

By cases in Indiana and Iowa, land so taken would not be liable for any taxes assessed subsequent to the date of the mortgage. [*State* v. *Jones*, 95 Ind., 175; *Ritchie* v. *McDuffie*, 62 Ia., 46.]

66. Leases and sales of lands. § 37. The board of trustees are hereby authorized to lease or sell at public

auction, any land that may come into their possession in the manner provided for in either of the two preceding sections in such manner and on such terms as they may deem for the interests of the townships; *Provided*, that in all cases of sale of such land, the sale shall be either at the door of the court house, where judicial sales of land are usually made, or else on the premises to be sold, as the trustees may order and direct; *And, provided*, that in all cases of sale of land, as provided in this section, the sale shall be made in the manner provided for sale of the sixteenth section by section 14 of article 13 of this act.

1. *Leasing Lands.* For further powers and limitations in regard to leasing lands, see **244**.

2. *Sale of Lands—How made.* If the lands which come into the possession of the trustees are sixteenth section lands, it is not necessary that there be a petition to give authority for their sale, as in the first instance [**249**], nor is it necessary that the county superintendent make the sale.

Any and all lands which the trustees acquire by purchase settlement or compromise, may be sold by them on their own motion. The steps prescribed are:

(1) If there is a newspaper published in the county, notice of the time, place and terms of the sale, with a description of the land, must be published in it for four weeks before the sale. If there is no such newspaper, then notices giving the same information must be posted in six public places in the county, forty days next before the sale. [**255**.]

(2) The sale must be made upon the premises, or at the court house of the county in which the land is situated. [**256**.]

(3) The sale must be by public auction. Should the trustees employ the county superintendent, as they may, to conduct the sale, they may pay him a reasonable sum for his services; but the sale would not be one for which section seventy-one gives him commissions. The sales there referred to are the original sales of sixteenth section lands, and sales of such lands as may come into his own hands as a part of any school fund held by him officially.

67. Township high school. § 38. Upon petition of not less than fifty voters of any school township, filed

with the township treasurer at least fifteen days preceding the regular election of trustees, it shall be the duty of said treasurer to notify the voters of said township that an election "For" or "Against" a township high school will be held at the said next regular election of trustees, by posting notices of such election in at least ten of the most public places throughout such township, for at least ten days before the day of such regular election, which notices may be in the following form, viz:

HIGH SCHOOL ELECTION.

Notice is hereby given that on Saturday, the.....day of April, A. D..... an election will be held at....., for the purpose of voting "For" or "Against" the proposition to establish a township high school for the benefit of township No.....,....., range No..... The polls for said election will be open at.....and close at.....o'clock of said day.

A. B.....*Township Treasurer.*

68. Ballots. § 39. The ballots for such election shall be received and canvassed as in other elections, and may have thereon the name of the person or persons whom the voter desires for trustee or trustees.

69. Township board of education. § 40. If a majority of the votes at such election shall be found to be in favor of establishing a township high school, it shall be the duty of the trustees of the township to call a special election on any Saturday within sixty days from the time of the election establishing the township high school, for the purpose of electing a township board of education, to consist of five members, notice of which election shall be given for the same time and in the same manner as provided for in the election of township trustees. The members elected shall determine by lot, at their first meeting, the length of term each is to serve. Two of the members shall serve for one year each, two for two years, and one for three years, from the second Saturday of April next preceding their election. Whenever a vacancy occurs (except by death or resignation), a successor or successors shall be elected, each of whom shall serve for three years, which subsequent election shall be held on the same day and in the same manner as the election of township trustees. In case of vacancy from other cause than the expiration of the term of office, the board shall call an election without delay, which election may be held on any Saturday, notice of which shall be given for the same time and in the same manner as for the election, of township trustees. Within ten days after their election, the members of the township board of education shall meet and organize by electing one of their number president, and by electing a secretary. It shall be the duty of the township board of education to establish at some central point most con-

venient to a majority of the pupils of the township, a high school for the education of the more advanced pupils.

70. Powers of board. § 41. For the purpose of building a school house, supporting the school and paying other necessary expenses, the township shall be regarded as a school district, and the township board of education shall have the power and discharge the duties of directors for such district in all respects.

1. *Township High School—Establishment—Maintenance.* When the people of any township have voted to establish a township high school and elected their school board, the board, without a further vote, must proceed to establish and maintain the school, both selecting a site and levying a tax for a school house. For this purpose the township becomes, in effect, a school district, and its school board (as the trustees were under the law as it was before revision) is invested with all the powers and duties of school directors. It may levy taxes [*Fisher* v. *People*, 84 Ill., 491; *Richards* v. *Raymond*, 92 Ill., 612]; fix a course of study, determine the qualifications for admission [*Trustees* v. *People*, 87 Ill., 303]; employ teachers, etc. For a further discussion of these duties, see comments upon the sections relating to school directors.

2. *Supported by Taxation—Schedules.* The township high school is supported by taxation alone; it does not receive any funds from distribution. The teachers should keep registers and make out schedules. All payments should be by orders, and the accounts of the school should be kept the same as if it were in a separate district. In making the report, however, only those items relating to it as a school should be reported.

71. Two or more townships may co-operate. § 42. In like manner the voters and trustees of two or more adjoining townships, or parts of townships, may co-operate in the establishment and maintenance of a high school, on such terms as they may, by written agreement made and signed by the boards of trustees, enter into.

72. Discontinuance. § 43. When any township, townships, or parts of townships shall have organized a high school, and wish to discontinue the same, upon petition of not less than a majority of the legal voters of said township, townships or parts of townships, filed with the township treasurers of said townships at least fifteen days pre-

ceding a regular election of trustees, it shall be the duty of the said treasurers to notify the voters of the township, townships or parts of townships, that an election will be held on the day of said regular election of trustees, for the purpose of voting "For,' or "Against" discontinuing the township high school; which notice shall be given in the same manner and for the same length of time, and may be in substantially the same form as the notice provided for in section 38 of this article.

73. Assets added to township fund. § 44. The ballots for such election shall be received and canvassed in the same manner as provided for in section 39 of this article. If the majority of the votes at such election shall be found in favor of discontinuing the high school, it shall be the duty of the trustees to discontinue the same, and turn all the assets of the said high school over to the school fund of the township or townships interested therein, in proportion to the assessed valuation of said townships, to be used as any other township fund for school purposes.

Disposition of Funds. If a township high school be discontinued, its funds should be added to the distributable fund and apportioned to the several districts. It seems right to make this use of them rather than to add them to the principal of the township fund, for they have been raised for current school expenses.

74. Trustee not to be interested in the sale of books, etc. § 45. No trustee of schools shall be interested in the sales, proceeds or profits of any book, apparatus or furniture used in any school in this state with which such trustee may be in any manner connected. For offending against the provisions of this section, any such trustee shall be liable to indictment, and, upon conviction, shall be fined in a sum not less than twenty-five dollars nor more than five hundred dollars, and may be imprisoned in the county jail not less than one nor more than twelve months, at the discretion of the court.

75. Township divided into districts. § 46. Trustees of schools in newly organized townships shall lay off the township into one or more school districts, to suit the wishes or convenience of a majority of the inhabitants of the township, and shall prepare or cause to be prepared a map of the township, on which map shall be designated the district or districts, to be styled, when there are more districts than one, "District No. ....., in township No....., range No. ....., of the ..... P. M. (according to the proper numbers), county of ....., and State of Illinois."

1. *School Districts should include all Territory.* All the township should be included in the school districts of the township as laid off by the trustees, so that every part may bear its share of the burden of school taxation, and so that every child of school age may be a resident of some district, and thus have some school which he has a right to attend. If a board of trustees find that any territory within its jurisdiction is not attached to any district, it should at once add such territory to some adjoining district or districts.

2. *Legality of Organization tested.* The legality of the organization of a district can be questioned in a direct proceeding only. [*People* v. *Trustees*, 111 Ill., 171.]

76. District lines changed. § 47. In a township where such division into districts has been made, the said trustees may, in their discretion, at the regular meeting in April, when petitioned as hereinafter provided for, change such districts as lie wholly within their townships, so as—

First—To divide or consolidate districts.

Second—To organize a new district out of territory belonging to two or more districts.

Third—To detach territory from one district and add the same to another district adjacent thereto.

1. *When changes may be made.* Changes in district boundaries may be made at the regular meeting in April only; that is, the proposition for a change must be presented on or before that date; but it may be carried over to an adjourned meeting. Should, however, the trustees fail to meet at the time of their regular meeting, it is held that they must meet (that a *mandamus* would lie to compel them to meet) and consider any such proposition that had been duly presented.

2. *What Changes may be made.* All the possible changes in the territory of a school district readily resolve themselves into four classes; (1) to divide a district so as to make two or more districts of it; (2) to consolidate two or more districts; (3) to make a district out of territory belonging to two or more districts, and (4) to detach territory from one district and add it to another.

3. *Districts under Special Laws.* The power here given to change district boundaries does not extend to districts

organized under special acts of the general assembly. [*Shaefer* v. *People*, 20 Ill. App. (20 Brad.), 605.]

77. Petitions. § 48. No change shall be made as provided for in the preceding section, unless petitioned for—*

First—By a majority of the legal voters of each of the districts affected by the proposed change.

Second—By two-thirds (⅔) of the legal voters living within certain territory, described in the petition, asking that said territory be detached from one district and added to another.

Third—By two-thirds (⅔) of all the legal voters living within certain territory, containing not less than ten (10) families, asking that said territory may be made a new district.

1. *Purposes served by the Petition.* In relation to changes of district boundaries, the petition serves two purposes: *first*, it states what change is proposed; and, *second*, it is essential that there be a petition in legal form and that it be duly filed, in order to give the trustees jurisdiction of the proposition.

2. *Petition must not be changed.* A clerical error in a petition may be corrected, but no modification of the proposed change is admissible after the petition has been filed. The reason for this rule is obvious. Through the petition the trustees acquire jurisdiction of the proposition which it presents, and no power is given them to change it. When the petition is filed, it has passed out of the control of the petitioners. If they are not satisfied with it, their only remedy is to put in another petition in the regular way which does represent their wishes, and secure the defeat of the one first filed. Further, it would be unfair to the districts interested to change a petition of whose pendency they have had notice, for something else of which they have not had notice. It is true that an amendment of a petition would sometimes make it more acceptable to all concerned, as well as clear it of objectionable features; but such amendment cannot lawfully be made. [*State* v. *Riley*, 85 Mo., p. 156; *District* v. *District*, 94 Mo., 612.]

3. *Forms of Petitions.* The law provides for petitions in three forms: (1) By a majority of the legal voters of the district or districts affected. (2) By two-thirds of the

*Forms Nos. 14, 15, 16.

legal voters living in certain territory which it is proposed to transfer to another district. (3) By two-thirds of the legal voters in certain territory, containing not less than ten families, of which it is proposed to make a new district. It has been held that a petition of this third form is not to be granted unless it be true that both the proposed new district and the old district, which is to be regarded as a new district, have each not less than ten families. [*Chesshire* v. *People*, 116 Ill., 493.] Sometimes one and sometimes another form of petition may be used. For instance, a majority of the legal voters of a district may petition to have it divided along a certrin line; or the trustees may be asked to do the same thing by a petition signed by two-thirds of the legal voters living in one part of the district, requesting that that part be made a separate district, if only, as stated above, each part has not less than ten families living in it. A majority of the legal voters living in each of two or more districts, or two-thirds of the legal voters living in their whole territory may petition, in one case, for their consolidation, and, in the other, that the whole territory be made a district. A majority of the legal voters of two districts may petition to have a part of one district set off to another; or two-thirds of the legal voters living in the part which it is proposed to set off, may ask for the same thing; and it is held that the petition of one voter, if he is the only voter living in such part, is sufficient in this case.

4. *Petition must make a Case under the Law.* But whichever form of petition is used, it must make a case under the statute, or it will not be the duty of the trustees to assume jurisdiction of the matter. [*Potter* v. *Trustees*, 10 Ill. App. (10 Brad.), 343; *Trustees* v. *People*, 25 Ill. App. (Smith), 25; *Currie* v. *People*, 123 Ill., 198.] The first decision was made under the statute when it did not read as it does now; so while the rule laid down in the opinion must be followed, what a petition should now contain must be learned from the statute.

Petitions should begin, "We the undersigned being a majority of the legal voters of district ——," or, "two-thirds of the legal voters in the territory herein described,"

or "two-thirds of the legal voters in the territory herein described, which contains ten or more families;" and the prayer of the petition must be one which the trustees have power under the law to grant, and one which may be made under the form of petition chosen. If the proposed change must be submitted to two or more boards of trustees, then there must be two or more petitions, differing only in being addressed to different boards of trustees, and each signer must sign all the petitions. Care in respect to the signatures is desirable so as to shut out any questioning of the copies served upon the interested districts.

5. *Status of Petition fixed when filed.* The *status* of the petition is fixed when it is filed; hence, from the number of persons who on that day are the legal voters of the territory or district petitioning, the petition must have a majority, or two-thirds, according to form used, as signers. If a man moves out of the district after signing a petition, and before the petition has been filed, his name must not be counted to make up the legal number of signers; but if he moves out after the petition has been filed, his name must be counted; for the trustees have already acquired the jurisdiction which it is one of the functions of the petition to give. And no change in the number of voters in the district or territory after the petition has been filed will withdraw jurisdiction.

78. Districts of 1,000 inhabitants. § 49. In school districts having a population of not less than one thousand inhabitants, any desired change of boundaries may be submitted to the trustees by a vote of the people, instead of by the petition provided for in the preceding section, and when petitioned so to do by twenty-five legal voters of the district, the school board of the district shall submit the question of the change desired, to the voters of said district, at a special election called for that purpose, and held at least thirty days prior to the regular April meeting of the trustees. If a majority of the votes cast at any such election shall be in favor of the change proposed, then, due return of the election having been made to the township treasurer, the township trustees shall consider and take action the same as if petitioned therefor by a majority of the legal voters of such district; *Provided*, that no question of change of boundaries shall be submitted to a vote of the school district more than once in any one year.

Vote instead of a Petition. This clause of the statute provides another way by which a change of district lines may be proposed on behalf of a district having not less than one thousand inhabitants. But the voters of such a district may still propose such a change by a petition, if that way is preferred. It has been so held by one of the judges of Cook county.

79. Date of filing petitions—Notice. § 50. No petition shall be acted upon by the board of trustees unless such petition shall have been filed with the clerk of the said board of trustees at least twenty days before the regular meeting in April, nor unless a copy of the petition, together with a notice in writing, signed by one or more of the petitioners, shall be delivered by the petitioners, or some one of them, at least ten days before the date at which the petition is to be considered, to the president or clerk of the board of directors of each district whose boundaries will be changed if the petition is granted.

Which notice may be in the following form, to-wit:

The directors in district No....., in township No....., range No..... of the.....principal meridian, will take notice that the undersigned and others have made and filed with the board of trustees of said township their petition, a copy of which is herewith handed to you.

Signed, ...

Petition filed Twenty Days—Ten Days Notice to Districts. The law requires that the petition be filed twenty days prior to the April meeting to the trustees, and that districts affected have ten days uotice of the same in order that due publicity may be given to the proposition. Compliance with these requirements may not be disregarded. [*State* v. *Graham*, 60 Wis., 395.]

It is held that the copy of the petition which is filed with the president or clerk of an interested district must include the names of the signers, since they are an essential part of the petition. So, too, it is obligatory upon the petitioners to see that the copy of the petition is actually delived to one of the officers named. The petitioners having delivered a copy to the proper person, should make to the township treasurer a return* of the delivery with name and date in writing, so that there may be evidence of that fact before the trustees when they meet; but if this has not been done,

* Form No. 18.

evidence of notice may be obtained by the trustees in any other satisfactory way.

80. Action by two boards of trustees. § 51. At the said April meeting, by the concurrent action of the several boards of trustees of the townships in which the district or districts affected lie, each board being petitioned as provided for in section 48 of this article, the same changes may be made in the boundaries both of districts which lie in separate townships, but adjacent to each other, and of districts formed of parts of two or more townships, as are permitted to be made in districts which lie wholly in one township.

Concurrent Action. If any proposed change affects a district or districts lying wholly in one township, then the proposition must be submitted to, and considered by, the trustees of that township; but if the districts affected do not lie in one township, then the proposition must be submitted to, and acted upon by, the board of trustees of each township into which the districts concerned, or any of them, extends; and in such case the two or more boards of trustees must concur in approving the proposed change in order that it be made by their action. Concurrence of action does not imply a joint meeting; each board will act at its usual place of meeting in its own township. Should, however, a joint meeting be held, there must be a quorum of each board present; and the proposition would not prevail unless it should be approved by each board separately. When any proposed change of district boundaries requires action by more than one board of trustees the foregoing steps must be taken by each board.

81. Adjournment. § 52. When, at the regular meeting of the trustees in April, any petition shall come before the trustees, asking for any change in boundaries, it shall be the duty of the trustees to ascertain if the foregoing provisions have been strictly complied with; and if it shall appear that they, or either of them, have not been complied with, then, in such case, the board shall adjourn for not longer than four weeks, in order that the foregoing provisions may be complied with; but there shall be but one adjournment for such purpose.

Adjournment. A defect here must be cured by an adjournment. The petitioners have a right to a hearing, and to such a hearing as the law prescribes. If the trustees

consider and act upon a petition before the time has come when they may lawfully act upon it, their action would be promptly set aside by any court before whom the matter might be brought, and the petitioners would thus, by the neglect of the trustees to follow the law, be deprived of their right.

Should trustees neglect this requirement and act upon the petition too soon, it is held that they must call a special meeting, open up the case, and take steps essential to a legal consideration of the petition.

If it should be found, after an adjournment, that the petitioners have still failed to give districts affected legal notice of the petition pending, the trustees must refuse it further consideration for lack of complete jurisdiction.

82. Consideration of petition. § 53. If on the day of the regular meeting, or, in case of an adjournment, at the adjourned meeting, it shall appear that such provisions have been complied with, then the trustees shall consider the petition, and shall also hear any legal voters living in the district or districts that will be affected by the change if made, who may appear before them to oppose the petition, and they shall grant or refuse the prayer of the petitioners, without unreasonable delay. After the trustees shall consider the petition, no objection shall be thereafter raised as to its form, and their action shall be *prima facie* evidence that all the formal requirements have been complied with.

1. *Proceedings by Trustees.* The first duty of a board of trustees, upon finding, at their meeting in April, that a petition had been filed for their consideration, is to ascertain whether on its face it makes a case under the law. [**77** *notes*, 1-4. But the trustees may always investigate to ascertain whether a petition is what it purports to be; that is, whether it really does ask for what the trustees may grant, and whether it in fact has the number of signatures it claims to have. If a petition does not upon its face come within the statute, or if the trustees find upon examination that it does not, then they must dismiss it as insufficient to give them jurisdiction.

Having found that a petition does come within the statute, the trustees must next ascertain whether it has been

filed twenty days, and whether all districts affected have had due notice of its pendency.

2. *Mandamus to compel Consideration.* A *mandamus* will lie to compel trustees to consider a petition which is properly before them. [*Badger* v. *Knapp*, 7 Ill. App. (7 Brad.), 222; *Case* v. *Blood*, 61 Ia., 632; *Hightower* v. *Overhaulser*, 65 Ia., 347.]

3. *Discretion of Trustees.* A proposition for a change of district lines of which a board of trustees has acquired full jurisdiction, then comes up to be granted or refused without modification; and the trustees have full discretion both as to the mode of consideration and as to their decision, being bound only to act in good faith.

4. *Prima Facie Case.* In the sentence of the law "After the trustees shall consider the petition no objections can be raised as to its form, and their action shall be *prima facie* evidence that all the foregoing provisions have been complied with," the word "form" is used as distinguished from "substance;" and the sentence means that, after consideration by the trustees, objections on account of matters not essential to the validity of the petition may not be made, and that a presumption that the trustees have acquired jurisdiction of the subject of the petition has been created, which may be overcome by sufficient evidence only. It does not prevent the county superintendent from considering all essential matters on appeal; and a writ of *certiorari* will lie to review the proceedings in such a matter [*Miller* v. *Trustees*, 88 Ill., 26]; but it must be brought within a reasonable time. [*Trustees* v. *Directors*, 88 Ill., 100.] Acts clearly within the discretion of the trustees will not be disturbed. [*Thompson* v. *Beaver*, 63 Ill., 353; *Directors* v. *Trustees*, 66 Ill., 247.]

5. *Remonstrance.* A remonstrance against granting a petition is often made, either orally or in writing, by the voters of a district interested. Sometimes the remonstrance is made by men who have signed the petition. A remonstrance has no legal standing before the trustees. It is simply an expression of their opinion upon the question at issue by certain interested persons. It may, or may not, show good reasons why the petition should not be granted;

but it can, under no circumstances, no matter by whom presented or signed, give the trustees power to refuse to consider a petition which has come before them in the way prescribed in the law. The fact that a man signs a remonstrance does not nullify his signature to the petition.

6. *Trustee not disqualified.* A trustee is not disqualified from acting upon a petition by being a resident of an interested district, or by having signed the petition.

83. Right of appeal. § 54. The petitioners, or the legal voters who have appeared before the trustees at the meeting when the petition was considered, and opposed the same, shall have the right of appeal to the county superintendent of schools: *Provided*, that the party appealing files with the clerk of the trustees a written notice of appeal within ten days after the final action upon the petition by the trustees, which notice may be in the following form, to-wit:

To the trustees of schools, township No. ....., range No. ..... of .....county, Illinois.

You are hereby notified that the undersigned will appeal from your decision, made on the ..... day of ....., A. D. ....., granting (or refusing) the prayer of the petition in regard to (here give substance of the petition concerned) to the county superintendent of schools of ..... county, Illinois, as provided by law.

Signed, ...

Who may appeal to County Superintendent. Petitioners are entitled to appeal to the county superintendent of schools if their petition has been refused by the trustees. If it be before two or more boards, an appeal will lie if one board refuses. Those opposed to a petition can have the right to appeal when it has been granted, if they first oppose it before the trustees. If they fail to oppose before the trustees, they cannot appeal. Notice of appeal must be filed, in writing, with the township treasurer within ten days of action by the trustees. If two or more boards of trustees must act upon a petition, and all do not act the same day, the ten days will count from the date of action by the board acting last.

84. Hearing by county superintendent. § 55. When an appeal is taken from the action of the trustees to the county superintendent, the clerk of the trustees shall, within five days after the written notice of the appeal has been filed with him by the appellants, transmit all the papers in the case, with a transcript of the records of the trustees, showing their action thereon to the county superintendent;

and in case of an appeal, the township treasurer shall be required to take no further action in the matter, except upon the order of the county superintendent, whose duty it shall be to investigate the case upon such appeal; and if, in his opinion, the change asked is for the best interests of the district or districts concerned, he shall make such change or changes; but if he considers the proposed change unadvisable, he shall refuse to make it, and shall reverse, if need be, the action of the trustees, and shall give the clerk, from whom he received the papers, immediate notice of his decision, and his action shall be final and binding. If the changes asked for by the petitioners shall be made by the county superintendent, he shall notify, in writing, the clerk by whom the papers in the case were transmitted to him, of his action, and the clerk shall thereupon make a record of the same, and shall, within ten days thereafter, make a copy of the same and a map of the township, showing the districts, and an accurate list of the tax-payers of the newly arranged districts, and deliver them to the county clerk for filing and record by him, the same as if the changes had been ordered by the trustees.

1. *Transmittal of Papers.* If any township treasurer fail to transmit within five days the papers in an appeal case to the county superintendent, such failure makes the clerk liable to the fine imposed later in **115,** but does not defeat the appeal. The trustees, or the county superintendent, upon learning of such neglect, should order the papers sent forward.

2. *Proceedings by Superintendent.* The county superintendent, in considering the case upon appeal, should first ascertain whether the appeal has been taken in the way the way the law provides and by some persons having a right to appeal. If he finds that the appeal has not been properly taken, he must dismiss the appeal, and notify the township treasurer that the case stands as left by the trustees. If the county superintendent finds that he has jurisdiction, he should next review the proceedings of the trustees, to ascertain whether they had jurisdiction, and whether they had proceeded according to law. If he finds in the case any error that the trustees have power to remove, he can send the case back to the trustees, and direct them to hold a special meeting and take such action as may be necessary to free the record of the case from error.

(Such an error would be hearing the case before twenty days after filing the petition.) But if he finds incurable errors in the case, he must refuse the petition, and so instruct the township treasurer. It is essential that the county superintendent take this course, in order that the whole transaction, which is statutory, may be in compliance with the law, and that the proceedings may be free from such errors as would compel setting them aside, if brought into court for review by a writ of *certiorari*, or called in question in *quo warranto* proceedings.

Having found that the case is properly before him and that there is no error in the proceedings, he should then consider and decide the case upon its merits, having full discretion as to the mode of consideration and the decision. He should make a record of his proceedings and findings in the case, and send a copy of it to the township treasurer at once.

3. *"Final and Binding" mean What?* The law says that the decision of the county superintendent shall be "final and binding." But this means only that his decision is final so far as the school law provides, and that school officers and all interested persons are required to obey it. It does not mean that the case may not be taken into court after action by the county superintendent. [*Badger* v. *Knapp*, 7 Ill. App. (7 Brad.), 222, *State* v. *Graham*, 60 Wis. 395.]

85. Appeal to two counties. § 56. In all cases where the territory affected by a proposed change of district boundaries is divided by a county line or lines, the appeal may be taken to the county superintendent of schools of any one of the counties in which said territory is partly located, and upon any appeal being taken in any such case, the county superintendent of schools, to whom such appeal is taken shall, forthwith, give notice to the county superintendent or superintendents of schools of the other county or counties of the pendency of such appeal, and of the time and place, when and where it will be heard, and the county superintendents of schools of the counties in which the said territory is located, shall meet together at such time and place and together hear and determine said appeal. In case the said county superintendents shall be unable to arrive at an agreement, then the county judge of the county

where such appeal is pending, shall be called and shall constitute one of the board of appeal, and thereupon the appeal shall be heard and determined by them. And the county superintendent of schools to whom such appeal is taken, shall at once notify, in writing, the clerk by whom the papers in the case were transmitted to him, of the action taken on such appeal as hereinafter provided.

86. Map and list of taxpayers. § 57. Whenever change in boundaries is made by the trustees of schools, if no appeal is taken to the county superintendent, the clerk of the trustees shall make a complete copy of the record of the action of the trustees, which copy shall be certified by the president of the trustees and the clerk who shall file the same, together with a map of the township, showing the districts and an accurate list of the tax-payers of the newly arranged districts, with the county clerk for record within twenty days of the action of the trustees.

1. *Record.* The record made of the action by the trustees should show every step taken and should be full and complete, so that their proceedings may be readily reviewed it it should ever be necessary to do so.

2. *Filing Map, etc.* The requirements of the law with regard to time for filing map and calling an election are directory; and while a *mandamus* will lie to compel the treasurer to act, and his neglect of duty makes him liable to a fine [**115**], such neglect does not defeat the action already taken. [*Directors* v. *Directors*, 73 Ill., 249.] Decisions of the courts at variance with this were made upon a reading of the statute which, in exact words, made the filing of the map, etc., *within the time named* essential to the validity of the action. The law does not so read now. [*Potter* v. *Trustees*, 10 Ill., App. (10 Brad.), 343.]

87. Liable for bonded debt. § 58. In case any territory shall be set off from any district that has a bonded debt, the change not being petitioned for by a majority of the legal voters of said district, such original district shall remain liable for the payment of such bonded debt; as if not divided. The directors of the original district having such bonded debt and of the district into which the territory taken from such original district has been incorporporated or formed, shall constitute a joint board for the purpose of determining and certifying, and they shall determine and certify to the county clerk the amount of tax required yearly for the purpose of paying the interest and

principal of such bonded debt, which tax shall be extended by the county clerk against all property embraced within such original district, as if it had not been divided.

Bonded Debt. If a change of district boundaries, affecting a district having a bonded debt, is made by reason of a petition of the first form above, presented by a majority of the legal voters of such district, then this provision of the law in reference to a bonded debt will not apply. [**92,** *note* 1.]

88. Election in new district. § 59. When the trustees of schools shall organize a new district, as hereinbefore provided for, it shall be the duty of the clerk of the board of trustees, if no appeal is taken to the county superintendent, to order, within fifteen days after the action of the trustees, an election, to be held at some convenient time and place within the boundaries of such newly organized district, for the election of three school directors, notice being given by the township treasurer, who shall post up at least three notices of such election in at least three prominent places in said district, at least ten days prior to the time appointed for holding such election, which notices shall specify the place where such election is to be held, the time for opening and closing the polls, and the object of such election, which notice may be in the following form, to-wit:

ELECTION NOTICE.

Public notice is hereby given that on the.....day of.....A. D. ....., an election will be held at.....for the purpose of electing three school directors for the new district known as district No....., in township No....., range No....., of the.....P. M., in.....county, Illinois.

The polls at said election will be opened at.....o'clock.....M., and close at.....o'clock.....M.

By order of the board of trustees of said township.

Signed.....*Township Treasurer.*

Election in Old District and New. When two districts are formed, by division, out of one, each district, having different territory and a different voting population from what it had before, is to be regarded as a new district, and should, therefore, elect a new board of directors, who should draw lots for their respective terms of office, as in case of an original organization. The same should be done, and for the same reasons, when a new district is formed by the consolidation of two or more districts. If two districts are consolidated by the trustees, and the number and designation of one of the districts is retained as the number and designation of the new district, a new board

of directors should, nevertheless, be elected. The voting population being changed by the consolidation, the question of who shall be directors of the new district should, of right, be referred back to the people. [*Chesshire* v. *People*, 116 Ill., 493.]

89. Judges, etc. § 60. At the time appointed for opening the polls for said election, it shall be the duty of the legal voters present. five of whom shall constitute a quorum, to appoint three of their number, two of whom shall act as judges, and one as clerk of said election, and the election in all other respects shall be conducted as other elections for the election of school directors.

90. Organization. § 61. Within ten days after the election, it shall be the duty of the directors elected at such election, to meet at some convenient time and place previously agreed upon by said directors and organize as a district board, by appointing one of their number president, and another of their number clerk of said board, as in other cases of the election of school directors. At this first meeting of the directors they shall draw lots for their respective terms of office for one, two and three years, each of which shall be considered a fractional term, ending at each annual meeting according to the term drawn.

91. District formed by county superintendent. § 62. In case a new district is organized by the action of the county superintendent, the said clerk of the board of trustees shall, within five days after he has received notice of the action of the county superintendent on the appeal, order an election of directors in the new district, the same as if the change had been made by the board of trustees, and such election shall be held in the same manner as the election provided for where the trustees have formed such new district.

92. Division of funds. § 63. Whenever a new district has been formed by the trustees, or by the county superintendent, or county superintendents, from a part of a district or from parts of two or more districts, the trustees of the township or townships concerned shall proceed forthwith to make a distribution of tax funds, or other funds which are in the hands of the treasurer, or to which the district may, at the time of such division, be entitled, so that both the old and new districts shall receive parts of such funds in proportion to the amount of taxes collected, next preceding such division from the taxable property in the territory composing the several districts. If the new district be composed of parts of two or more dis-

tricts, the trustees shall make distribution of said funds between the new district and the old districts, respectively, so that the new district shall receive a distribution of the funds of each of the old districts, in the proportion which the amount of taxes collected from the property in the territory of the new district bears to the whole taxes collected, next before the division, in the old district; and the town treasurer shall forthwith place the sum so distributed to the credit of the respective districts, and shall immediately place the proportion of the funds to which said new district may be entitled to its credit on his books, and the funds on hand shall be subject at once to the order of the directors of the new district, and those not on hand as soon as collected.

1. *Division of Funds* No division of funds or property is to be made by the trustees unless a new district is formed. If a portion of territory is cut off from one district and attached to another, thereby changing the boundaries without establishing a new district, no division of funds or property is required. When a new district is formed, all funds on hand must be distributed at the time such new district is formed, and all funds due, but not yet paid in, must be divided as soon as received, except in case of debts, etc., as hereafter noted; and the distribution in both cases must be made in proportion to the amount of taxes collected from the property remaining in each district. When a new district is formed, the school property, such as houses, sites, etc., must be appraised, and the value thereof apportioned among the several districts in the same proportion as the funds. The law requires a prompt division of funds and apportionment of the value of school property. The appraisal and apportionment of the value of school property should be made at the time the new district is formed, and it must be made within three months. For refusal to make the appraisal and distribution required by law, the trustees are liable. When a new district is formed by consolidation of two or more districts, the new district so formed owns all the corporate funds and property of the constituent districts. Where a school-house belongs to a district, but not the site on which it stands, the appraised value of said house must be apportioned as

above. The fact that the district does not own the site, does not release it from the obligation to divide the value of the house which it does own, and which both districts helped to build.

2. *Pending Contracts must be respected.* Trustees may change the boundaries of districts at the regular meeting in April, but regard should always be had to the rights of parties under contracts previously made. In cases where schools are in progress in districts affected by the action of the trustees, such action should, when practicable, be made to take effect after the close of such schools. But if a district is actually abolished, by attaching its territory to another district or districts, during a term of school, the directors of the district or districts receiving the territory and the property of the district so abolished or broken up, must be made liable to the teacher for the full amount of his wages under his contract with the directors of the abolished district, or the board of directors who employed him must continue responsible for his wages. The same principle applies where a district is divided and a portion set off to another district, one or more of the directors being residents of the portion set off. The persons elected to fill the vacancies are bound to respect the contract of the teacher, the same as the original directors. So, also, when a new district is formed out of an old one having funds on hand, but specifically set apart to the payment of a teacher then engaged in teaching, the funds so set apart should not be divided, but applied to said specific purpose. The provisions of the law in this respect should be understood as applying only to the funds not already specifically appropriated. [*Rogers* v. *People*, 68 Ill., 154.]

3. *Division of Funds illustrated.* In the division of funds, two classes of cases are involved, and only two: First, when two districts are made out of one; Second, when the territory of the new district is taken from that of two or more districts. The application of the rule, in each case, is as follows:

(1.) Suppose district A. is divided into two districts, B. and C., and that at the time of the division A. had on hand, or

due and receivable, $300.00. Suppose, further, that the amount of taxes last collected from A. was $700.00, of which the property in B. paid $400.00, and the property in C. $300.00. Under the rule of the law, district B. is entitled to four-sevenths of the $300.00, or $171.43; and district C. is entitled to three-sevenths of the said $300.00 or $128.57.

(2.) Again: Let a new district, D., be formed from parts of two old districts, E. and F.; and, at the time the new district is made, let E. have on hand $400.00 and F., $300.00. Let the amount of taxes last collected from E. be $1,500.00, of which sum $600.00 came from the property in that part of D. that was taken from E. Let the amount of taxes last collected from F. be $1,000.00, of which $300.00 came from that part of D. that was taken from F. Applying the same rule of the law, D. is entitled to two-fifths of E.'s $400.00, or $160.00, and to three-tenths of F.'s $300.00, or $90.00—making $250.00 in all. Hence, on final adjustment, each district's share of the funds on hand will be D., $250.00, E., $240.00, and F., $210.00. These illustrations show the manner of solution of every case that can arise.

93. Division of real estate. § 64. The trustees of the township or townships concerned shall, at the time of the creation of a new district, or within the period of thirty days thereafter, proceed to the appointment of three appraisers, who shall not be citizens of the township or townships interested. It shall be the duty of said appraisers, within thirty days after their appointment, to appraise the school property, both real and personal, of the district or districts interested, at their fair cash value. Within thirty days after such appraisement, the trustee or trustees of the township or townships concerned shall proceed to charge the property to the district in which it may be found, and to credit the other district interested therein with its proportion of such valuation; *Provided*, that the *bona fide* debts, if any, of the old district, shall be deducted and the balance charged and credited as aforesaid; and the trustees shall direct the treasurer to place to the credit of the district not retaining said property, its proportion of the value of said property, and of the funds then on hand, or subsequently to accrue, belonging to such, district to which such property is charged.

1. *Division of Other Property—Appraisal.* The valuation put upon property by the appraisers must be accepted as final; but if their action is tainted with fraud, or if too much or too little property was included in the valuation, the trustees may order a new appraisal. Of this estimated cash value, each district concerned is to have a certain share. The share in the property that each district shall have is to be found and determined by the same rule that applies to the division of funds, that is, in proportion to the amount of school taxes last collected from the respective districts.

To illustrate: District A. is divided, making districts B. and C. The house falls in district B. The estimated cash value of the house is $1,000. The taxes last collected from the property in B. amounted to $2,500.00; those last collected from the property in C. amounted to $1,500.00. District B. is therefore entitled to five-eighths of the $1,000.00, or $625.00, and district C. to three-eights, or $375.00.

But how is district C. to get is $375 00? Thus: The trustees are to order the treasurer to place that amount to the credit of district C. out of the funds in his hands belonging to district B., if the amount in his hands, as aforesaid, is sufficient for that purpose. If there are no funds in the treasurer's hands belonging to district B., or not enough to pay what is due to district C., then the treasurer is to place said amount, or the balance thereof, as the case may be, to the credit of C. out of the funds "subsequently to accrue" to district B. The debt, or the balance thereof, is to be paid from the first funds belonging to B. coming into the treasurer's hands, whether they be state, county, township or district funds. Knowing its liability, and the amount thereof, district B. must provide therefor, or for any unpaid portion thereof, by a special district tax, or by including the amount in its annual tax for current expenses. It is the intention of the law to complete and conclude such transactions as soon as possible. Hence, the judgment of the appraisers is final, and the payment of the sum due the district not retaining the property, is thereafter in the hands of the trustees and

treasurer exclusively, who must cause settlement to be made as aforesaid. For failure to divide funds and property as enjoined by this section, trustees are heavily liable, both individually and jointly. Districts which have heretofore failed to obtain their just share of the value of school property, are also entitled to redress under the provisions of this section.

2. *Debts deducted.* The *bona fide* debts of the old districts must be deducted, before the funds and property are divided between the two districts. If, for instance, a district has on hand $100.00, and school property valued at $1,000.00, but is indebted to teachers, or otherwise, to the amount of $300.00, and under these circumstances a portion of its territory is cut off and erected into a new district, the $100.00 on hand, and $200.00 of the value of property, must be deducted and set apart for the payment of said debt of the old district; incurred before the division, and the remainder only of the value of the property ($800.00) divided between the two districts, in the manner prescribed by law. The equity of this provision is too plain for remark.

3. *Liability of one District to another enforced.* The liability of one district to another for a failure to pay the amount due on a division of property may be enforced by a suit in equity. [*Directors* v. *Directors*, 73 Ill., 249; *Directors* v. *Directors*, 16 Ill. App. (Brad.), 651.]

4. *Bonded Debt.* If, however, in accordance with **87**, the territory of the original district is to continue liable for the bonded debt, the amount of such debt must not be deducted from the valuation of the property; for to deduct it would give one part of the district the property for the difference between the valuation and the debt, and yet relieve it from a part of the debt, while the other part would be credited with its share of the property less the debt, and still be held for a part of the debt.

5. *Districts may not waive their Rights.* A new district may not agree with an old one from which a part or a whole of its territory is taken, for a disposition of property different from that provided by law. [*People* v. *Hodge*, 4 Neb., 265; *State* v. *Kidd*, 63 Wis., 337.]

6. *District dissolved by adding Part to one, and Part to another District.* One case the law does not provide for: If a district (not a union district, petitioning under the last paragraph of the section) is dissolved by adding a part of it to one district and the rest to another, the law does not say what the trustees shall do with its funds and property, if anything is left after paying its debts. The law being silent, all that can be said is that the realty would belong to the district to which it falls by the action of the trustees; and that the trustees could make such disposition of the funds between the two districts as they deem fair.

7. *All Adjustment of Funds made by Trustees and Treasurer.* All adjustment of district funds made necessary by this section may be made by the treasurer under the direction of the trustees.

8. *New District to receive Funds in October.* A new district will be entitled, the same as an old one, to its share of the funds distributed by the trustees in October and April next after its organization.

94. Trustees liable. § 65. If the trustees shall fail to observe the provisions of sections 63 and 64, in reference to distribution of funds and property, they shall be individually and jointly liable to the district interested, in an action on the case, to the full amount of the damages sustained by the district aggrieved. Where trustees have heretofore failed to make distribution of property to districts, as provided in said sections 63 and 64 of this article, the district interested in the making of such distribution may, by its directors, request the trustees, in writing, to proceed to make such distribution; and said trustees shall proceed to make such distribution in the manner prescribed, and shall be liable, as herein stated, for a neglect or failure so to do.

95. Clerk liable. § 66. The clerk of any board of trustees who shall fail, neglect, or refuse to perform the duties imposed upon him by this article of this act, or any of them, within the time and in the manner prescribed, shall, for each offense, forfeit not less than ten dollars ($10), nor more than twenty-five dollars ($25) of his pay as clerk of the board of trustees and township treasurer, which forfeiture shall be enforced by the trustees.

96. District having no school for two years. § 67. If any school district shall, for two consecutive years, fail

to maintain a public school, as required by law to do, it shall be the duty of the trustees of schools of the township, or townships, in which such district lies, to attach the territory of such district to one or more adjoining school districts; and in case said territory is added to two or more districts, to divide the property of said district between the districts to which its territory is added, in the manner hereinbefore provided for the division of property in case a new district is organized from a part of another district, and the action of the trustees in such a case shall be final and binding. And the clerk of the trustees in such case shall file a copy of the record of the same, together with the map and list of tax-payers with the county clerk as in other cases of change of district boundaries.

District which has had no School for two Years. Whenever it is brought to the knowledge of the trustees of a school township that any school district within their jurisdiction has failed for two consecutive school years (for this purpose the year ends June 30 [55], to maintain a legal school, they should at once proceed to attach its territory to one or more adjoining districts. In the case of a union district, the fact of delinquency should be established by the concurrent action of the two or more boards of trustees; but each board will by itself dispose of the territory in its township, unless it is proposed to add it to some district lying in whole or in part in another township, in which case concurrent action with the board of trustees of such other township is essential.

Under this provision of the law the trustees take action without any petition; and a petition, if presented, has no legal standing—it merely expresses the opinion of the petitioners.

97. Dissolution of a union district. § 68. The majority of legal voters of a district lying in two or more townships may secure the dissolution of said district by petitioning the several boards of trustees of said townships, at their regular meeting in April, that each will add the territory belonging to said district, in its township, to one or more adjacent districts. Upon receipt of such petition, or the returns of the election (in districts containing one thousand or more inhabitants) the several boards of trustees shall each make such disposition of the territory of said district as lies in its township, and they shall jointly make such division of property of said district between the dis-

tricts to which its territory is attached, as is hereinbefore provided in the case of the organization of a new district from a part of another district. The action of the trustees, in accordance with such petition or election, shall be final and binding, and the clerks of the several boards of trustees, in such case, shall file a copy of the record of the same, together with the map and lists of tax-payers with the county clerk, as in other cases of change of district boundaries.

Union District dissolved. Whether the petition required by this paragraph is sufficient or not is a question to be determined by the concurrent action of the trustees of the two or more townships in which the union district lies. The petition must be signed by a majority of the legal voters of the whole district; it does not require the signature of a majority of the legal voters of each part. The petition being found sufficient, the union district is thereby dissolved, and each board of trustees proceeds thereupon to make such disposition as it deems best of so much of the territory of the dissolved district as lies in its township, not being bound in relation thereto by any petition or petitions received asking for a particular disposition of the territory or any part thereof. The trustees must dispose of the whole territory, and must do this in such a way as will in their judgment best suit the wishes and convenience of the majority of the people interested.

98. Successors. § 69. The trustees of schools, elected as provided for in this article, shall be the successors to the trustees of school lands, appointed by the county commisoners' court, and of trustees of schools elected in townships under the provisions of "An Act making provisions for organizing and maintaining common schools," approved February 26, 1841, and "An Act to establish and maintain common schools," approved March 1, 1847, and "An Act to establish and maintain a system of free schools," approved April 1, 1872. All rights of property, and rights and causes of action, existing or vested in the trustees of school lands, or the trustees of schools appointed or elected as aforesaid, for the use of the inhabitants of the township, or any part of them, shall vest in the trustees of schools, as successors, in as full and complete a manner as was vested in the trustees of school lands, or the trustees of schools appointed and elected as aforesaid.

ARTICLE 4.

TOWNSHIP TREASURER.

§ 1. Bond; form of bond.
§ 2. Treasurer's accounts; record of notes and bonds; subject to inspection.
§ 3. Terms of loans.
§ 4. Securities to run to board of trustees.
§ 5. Surplus district funds may be loaned.
§ 6. Statement of loans to be delivered to county superintendent.
§ 7. Form and release of mortgage.
§ 8. Action on mortgage; insurance policies.
§ 9. Additional security.
§ 10. Preference given to debts due to school fund.
§ 11. Default in payment; penalty; action to recover interest.
§ 12. Manner of bringing suits.
§ 13. Treasurer shall keep money, books and papers, and keep funds at interest.
§ 14. Semi-annual statement to trustees.
§ 15. Annual exhibit.
§ 16. Statement to districts; exhibit to be posted.
§ 17. Penalty for failure to perform requirements of the preceding sections.
§ 18. Unpaid orders of teachers to draw interest.
§ 19. Additional duties defined.
§ 20. Treasurer liable for failure to perform his duties, but not liable when acting under orders of board.
§ 21. Bonds, securities, etc., to be turned over to successor; penalty and judgment.
§ 22. Compensation of the treasurer.

99. Bond. § 1. The township treasurer appointed by the board of trustees of schools shall, before entering upon his duties, execute a bond with two or more freeholders, who shall not be members of the board, as securities, payable to the board of trustees of the township for which he is appointed treasurer, with a sufficient penalty to cover all liabilities which may be incurred, conditioned faithfully to perform all the duties of township treasurer in township No. ....., range No. ....., in ..... county, according to law; which bond shall be approved by at least a majority of the board, and shall be delivered by one of the trustees to the county superintendent of the proper county. And in all cases where such treasurer aforesaid is to have the custody of all bonds, mortgages, moneys and effects denominated principal, and belonging to the township for which he is appointed treasurer, the penalty of said treasurer's bond shall be twice the amount of all bonds, notes, mortgages, moneys and effects; and shall provide for the faithful accounting for, and turning over, of all such bonds, notes, mortgages, moneys and effects, as shall come into his hands while he may act as such treasurer, under such appointment, to his successor, when appointed and qualified, as herein provided, by giving bond. The penalty of said bond shall be increased from time to time, as the increase of the amount of notes, bonds, mortgages and effects may require, and whenever, in the judgment of the trustees or county superintendent, the security is insufficient. Any and every township treasurer appointed

subsequent to the first, as herein provided, shall execute bond with security, as is required of the first treasurer.

The bond required in this section shall be in the following form, viz.:

State of Illinois, } ss.
.....County, }

Know all men by these presents that we, A. B., C. D. and E. F., are held and firmly bound, jointly and severally, unto the board of trustees of township....., range ....., in said county, in the penal sum of ..... dollars, for the payment of which we bind ourselves, our heirs, executors and administrators, firmly by these presents.

In witness whereof, we have hereunto set our hands and seals this ..... day of ....., A. D. 18..... The condition of the above obligation is such, that if the above bounden A. B., township treasurer of township ....., range ....., in the county aforesaid, shall faithfully discharge the duties of said office, according to the laws which now are, or may hereafter be in force, and shall deliver to his successor in office, after such successor shall have fully qualified, by giving bond as provided by law, all moneys, books, papers, securities and property, which shall come into his hands or control, as such township treasurer, from the date of this bond up to the time that his successor shall have duly qualified as township treasurer, by giving such bond as shall be required by law, then this obligation to be void; otherwise to remain in full force and virtue.

Approved and accepted by:

G. H., }
I. J., } Trustees.
K. L. }

A. B., (Seal)
C. D., (Seal)
E. F. (Seal)

1. *Treasurer's Bond.* The penalty of the bond should be twice the amount of moneys, notes, mortgages and effects in the custody, or to be in the custody of the township treasurer. The bond must first be approved by the trustees, then filed with the county superintendent and approved by him. The approval in each case should be endorsed upon the bond with date of same, and should also be made a matter of record by the trustees.

Either the board of trustees or the county superintendent may require an increase of the bond or additional security whenever they consider the bond insufficient. For the liability of the trustees, if the treasurer's bond should prove insufficient, see **275.**

The treasurer's bond must be in the form prescribed by law. It must, also, be acknowledged by both the principal and each of the sureties. [*Sec.* 1, *Chap.* 103, *Rev. Stat.*]

2. *A Treasurer re-appointed gives a New Bond.* When the old treasurer is re-appointed, he must give a new bond; the obligation of the sureties is limited to the term for which they are security. [*Potter* v. *Trustees,* 11 Ill. App. (11 Brad.), 280; **26,** *note* 3.]

3. *But one Bond required.* No township treasurer is required to execute more than one official bond. When a township lies partly in two counties, the treasurer will file his bond with the county superintendent of the county in

which the school section, or the greater part thereof, is situated; and the certificate of said superintendent will be sufficient evidence to the superintendent of the other county, that the treasurer's bond has been filed according to law.

4. *The Treasurer's Liability.* The treasurer must respond in money or in securities for the whole amount of the funds received less such sums as have been lawfully disbursed.

"The fact that the township treasurer is required to receive money, and enter it in his cash book, implies without any other special regulations, that he is to keep it, and being required to keep it, it follows he is to keep it safely. This is one of the duties of his office he has undertaken faithfully to discharge. Another duty, no less important, is, that he will deliver to his successor in office all moneys in his hands as such township treasurer, which he could not do if he suffered it to be lost out of his hands, or it should be so lost by any accident. The undertaking is that the money shall be in his hands. These duties he has undertaken to perform unconditionally.

"The liability of the treasurer arises out of his official bond. He has made by that bond an express contract with the trustees, that he will keep safely the moneys which shall come to his hands. It is so 'nominated in the bond,' when that is read in the light of the statute prescribing his duties, and considerations of public policy forbid that he should be permitted to avail of any extraneous fact outside of the condition of the bond. The treasurer well knew and understood the contract he had entered into, and the extent of the obligation he had voluntarily incurred, and he has obtained all he contracted for—the possession of the office, with the emoluments attached to it.

"We think there is no principal on which the defense can be sustained, the contract being absolute, without any condition, express or implied. In these days of remorseless peculation upon the public, by its functionaries, indeed, at all times public policy demands, that depositaries of the public money should be held to the most rigid accountability, within the terms and scope of their covenants.

"They know well, on assuming their positions. the hazards to which they are exposed, and they voluntarily assume the risks, and are paid for so doing. Township treasurers, under our statute, sections of which we have cited, are made insurers of the funds coming to their possession, and nothing should or can excuse them but the act of God, or of the public enemy. There would be no

surety to the public, were not this the rule. A distinct and well defined liability is imposed on them by statute, and if it be not met to its fullest extent, the fact that the omission occurred, from misfeasance, or negligence, or other unavoidable accident, or by a felony committed by another, furnishes no defense to the action on the bond." [*Thompson* v. *Trustees*, 30 Ill., 99; *Trustees* v. *Smith*, 88 Ill., 181.]

5. *Trustees may not release Treasurer and his Bondsmen.* Township trustees have no power whatever to release township treasurer or the securities of a township treasurer from their liability on his bond. If suit is brought against a township treasurer, by action of debt on his bond, and judgment is obtained and execution issued, and no property of treasurer is found out of which to make the debt, and recourse is had upon the property of his bondsmen, the trustees can not, under any circumstances whatever, make an order releasing said bondsmen, and requiring the officer to desist from making the money out of their property. By so doing they become themselves liable, jointly and severally, in an action on the case, for the whole amount of the debt, lost by their official misconduct; and the same can be recovered in an action brought for the use of the proper township.

6. *Action on Treasurer's Bond—How and where brought.* In all cases where recourse by suit on a township treasurer's bond becomes necessary, the suit should be brought by the board of trustees in their corporate capacity, in the circuit court. [*Thompson* v. *Trustees*, 30 Ill., 99.]

100. Accounts. §2. Every township treasurer shall provide himself with two well bound books, the one to be called a cash book, the other a loan book. He shall charge himself in the cash book with all moneys received, stating the charge, when, from whom, and on what account received; and credit himself with all moneys paid or loaned, stating the amount loaned, the date of the loan, the rate of interest, the time when payable, the name of the securities, or, if real estate to be taken, a description of the same.

He shall also enter, in separate accounts, moneys received and moneys paid out, charging the first to debit account, and crediting the latter as follows, to-wit:

First—The principal of the township fund, when paid in, and when paid out.

Second—The interest of the township fund, when received and when paid out.

Third—The common school fund and other funds, when received from the county superintendent, and when paid out.

Fourth—The taxes received from the county or town collector, for what district received, and when and for what purpose paid out.

Fifth—Donations received.

Sixth—Moneys coming from all other sources; and in all cases entering the date when received, and when paid out. And he shall also arrange and keep his books and accounts in such other manner as may be directed by the state or county superintendent, or the board of trustees. He shall also provide a book, to be called a journal, in which he shall record, fully and at length, the acts and proceedings of the board, their orders, by-laws and resolutions. And he shall also provide a book, to be called a record, in which he shall enter a brief description of all notes or bonds belonging to the township, and upon the opposite page he shall note down when paid, or any remarks to show where or in what condition it is, as in the following form, viz:

Maker's Name.	Date of Note.	When Due.	Amount,	Remarks.
A. B., C. D., E. F.	January 1,18....	January 1,18....	$90.00	January 6th, 18.., handed to L. J., for collection(or January 6th,18..., paid.)

All the books and accounts of the treasurer shall at all times be subject to the inspection of the trustees, directors, or other person authorized by this act, or by any committee appointed by the voters of the township, at the annual election of trustees, to examine the same.

1. *Treasurer's Accounts.* The treasurer handles three classes of funds, and in order to keep his accounts intelligently, he must keep an account with each class. The funds are:

(1) The Principal of the Township Fund.
(2) The Distributable Fund.
(3) The District Funds.

2. *Principal of the Township Fund.* The treasurer should keep with this fund both a *cash* and an *investment* account.

The cash account should show, for any period, on one side the cash on hand at the beginning, and each amount received as loans are paid off from time to time, or from

any other source. The treasurer should remember, however, that interest and rents go to the distributable fund and should not be entered here. On the other side should be shown the serveral sums loaned, and losses of cash if any; and the account is balanced by cash on hand.

The investment account should show at the beginning, the aggregate of all classes of investments, these being notes on personal and real estate security, school bonds and real estate. It should further show the several additions to the investments; and the deductions, and the proper footing should give at any time the amount of the principal then invested. This amount, with the cash on hand in the cash account, should always be the sum of the principal of the township fund.

The treasurer should also keep a carefully written up inventory, or record, of all notes, bonds and real estate held as principal of the fund.

3. *Distributable Fund.* This fund consists of all moneys received to be distributed by the trustees to the several districts of the township at their regular meetings in April and October. Starting with the balance, if any, left over from the preceding distribution, the account should show the amounts received as income of the township fund, interest and rents, and from the county superintendent on apportionments. On the other side it should show the amount paid the treasurer for salary; all incidental expenses of the treasurer allowed by the trustees and paid out of this fund (this is the only fund they can draw upon for expenses); the amounts distributed by the trustees and put to the credit of the several districts, and it is balanced by cash on hand.

4. *District Funds.* The treasurer must keep an account with each district and fraction of a district in his township The account should show the balance from the last settlement and the receipts in detail with sources—the chief being usually the amounts received from the distributions by the trustees and from taxes. On the other side should be shown the expenditures in detail, and the account is balanced by cash on hand. Since all payments are upon

orders, the treasurer will find it convenient to note the number of each order in connection with the entry of its payment.

5. *Expert Book-keeping not demanded.* It will not take an expert accountant to keep the treasurer's books as above indicated; and yet, kept in that way, they will show all that they need show; and if they are constantly written up, a glance at them at any time will show how any district or any fund stands, and the condition of each loan. The securities and books can then be easily inspected, all receipts and expenditures readily checked off, and the sum of the cash balances in the several accounts will be the total cash on hand, which the treasurer may be called upon to show.

101. Loans. § 3. Township treasurers shall loan, upon the following conditions, all moneys which shall come to their hands by virtue of their office, except such as may be subject to distribution. The rate of interest shall not be less than six (6) per cent., nor more than eight (8) per cent. per annum, payable annually, the rate of interest to be determined by a majority of the township trustees at any regular or special meeting of their board. No loans shall be made for less than six (6) months, nor more than five (5) years. For all sums not exceeding two hundred dollars ($200) loaned for not more than one year, two (2) responsible sureties shall be given; for all sums over two hundred dollars, ($200), and for all loans for more than one (1) year, security shall be given by mortgage on real estate unincumbered, in value forty per cent. more than the amount loaned with a condition that in case additional security shall be at any time required, the same shall be gived to the satisfaction of the board of trustees for the time being; *Provided*, that nothing herein shall prevent the loaning of township funds to boards of school directors taking bonds therefor, as provided in section 1 article 9 of this act.

1. *What funds may be loaned.* The law says the treasurer shall loan all moneys which come into his hands by virtue of his office, except such as may be subject to distribution; but this refers to the principal of the township fund only, not to district funds held for district purposes. The treasurer is required to keep the principal of this fund

constantly loaned at interest so that the whole fund may be productive.

2. *Rate of Interest.* Township treasurers are authorized to loan the principal of the township fund, at a rate of interest not less than six per cent., nor more than eight per cent. per annum, payable annually. No action of the board of trustees is necessary to warrant loans at eight per cent., that being the maximum rate allowed by law; but no loans can be made at a rate of interest less than eight per cent., without the approval of a majority of the board of trustees, by whom such rate must be determined.

3. *Loans on Personal Security.* These may not be made for more than one year, and one person may not be loaned more than two hundred dollars upon this form of security. There must be two sureties of such a loan in addition to the principal—three names upon the note. When a loan of this class matures, if the borrower wants the money longer, the treasurer, if he extends the loan, should *in all cases* require a new note. Treasurers will greatly diminish the losses of the township fund if they adhere strictly to this rule, and collect principal and interest on this class of loans promptly when due.

4. *Loans on Real Estate.* In making loans upon real estate security, the treasurer must know that the borrower has good title and that the mortgage given is a first lien.

The treasurer is the responsible judge of the sufficiency of the security offered for a loan of school money. [*Trustees* v. *Baker*, 24 Ill. App. (Smith), 231.]

By the statute of limitations, the mortgage remains a lien for ten years after the maturity of the loan.

5. *Loans to School Districts.* The township fund may be invested in school bonds; but on these, as on other securities, the interest must not be less than six per cent. The treasurer, in taking school bonds, should ascertain whether they have been issued in accordance with the law. [*Art.* 9.]

6. *A Trustee may not borrow Money from the Township Fund.* The trustee may not borrow money from the school fund of his township or become surety for a borrower; and if he is a borrower or a surety when elected, he must pay

off his own loan if it matures while he is in office; and when the loan for which he is surety falls due, some one else must take his place as surety, if the money is re-loaned to the same borrower.

7. *The Treasurer must not borrow from the Fund.* The treasurer acts in a fiduciary capacity and may not borrow from the trust funds in his charge. His act in so doing would be a clear violation of law. It would be converting the fund to his own use, in effect, which is forbidden by **280.** [*Moore* v. *Trustees,* 19 Ill., 83; *State* v. *Greene,* 101 Ind., 532.]

8. *Liability of the Treasurer in making Loans.* The treasurer is held strictly accountable on his bond to conduct the business of loaning the fund in accordance with the law, and this liability attaches as soon as a loan is made in an unlawful manner. It is not necessary to wait until it has been ascertained that there will be a loss; suit may be begun at once. [*Trustees* v. *Misenheimer,* 78 Ill., 22; *People* v. *Haines,* 5 Gilman, 528.]

9. *Investments on other Securities.* The law limits the investments of township funds to the securities named, and the treasurer is by implication forbidden to make investments on any other security. But lending the funds on other securities than these mentioned and prescribed is a misapplication for which the treasurer is liable, as just shown above; it does not discharge the borrower. [*Littlewort* v. *Davis,* 50 Miss., 403.]

102. Notes, etc., payable to trustees. § 4. Notes, bonds, mortgages and other securities taken for money or other property due, or to become due to the board of trustees for the township, shall be payable to the said board by their corporate name;* and in such name, suits, actions and complaints, and every description of legal proceedings may be had for the recovery of money, the breach of contracts and for every legal liability which may at any time arise or exist, or upon which a right of action shall accrue to the use of such corporation: *Provided, however,* that notes, bonds, mortgages, and other securities in which the name of the county superintendent, or of the trustees of schools are inserted, shall be valid to all intents and

* Form No. 23.

purposes, and suit shall be brought in the name of the board of trustees as aforesaid. The wife of the mortgagor (if he is married) shall join in the mortgage given to secure the payment of money loaned by virtue of the provisions of this act.

103. Surplus loaned. § 5. Whenever there is a surplus of funds in the treasurer's hands belonging to any school district, the treasurer may loan the same for the use and benefit of such district, upon the written request of the directors of said district and not otherwise; and all such loans shall be on the same conditions as are prescribed in this article for the loaning of township funds.

Effect of the Request. The request made in writing will authorize the treasurer to loan the funds; but he must proceed upon his own responsibility and in accordance with the law. A request in writing that he make a loan upon insufficient security will not relieve him from responsibility in case of loss. [*Trustees* v. *Baker*, 24 Ill. App. (Smith), 231.]

104. Statement to county superintendent. § 6. The township treasurer shall, on or before the 30th day of June annually, prepare and deliver to the county superintendent of his county, a statement, verified by his affidavit, showing the exact condition of the township funds. Said statement shall contain a description of the securities, bonds, mortgages and notes belonging to the township, giving names of securities, dates, amounts of loans, rate of interest, when due and all data by which a full understanding of the condition of the funds may be obtained. The county superintendent shall preserve such statement for the use of the township.

105. Mortgages. § 7. Mortgages to secure the payment of money loaned under the provisions of this act, may be in the following form, viz:

I, A B, of the county of....., and state of....., do hereby grant, convey and transfer to the trustees of schools of township ....., range No. ....., in the county of....., and State of Illinois, for the use of the inhabitants of said township, the following described real estate, to-wit: (Here insert premises), which real estate I declare to be in mortgage for the payment of..... dollars loaned to me, and for the payment of all interest that may accrue thereon to be compuied at the rate of.....per cent. per annum until paid. And I do hereby covenant to pay the said sum of money in..... years from the date hereof, and to pay the interest on the same annually, at the rate aforesaid. I further covenant, that I have a good and valid title to said estate, and that the same is free from all incumbrance, and that I will pay all taxes and assessments which may be levied on said estate; and that I will give any additional security that may at any time be required in writing by said board of trustees, and if said estate be sold to pay said debt, or any part thereof, or for any failure or refusal to comply with or perform the conditions or covenants herein contained, I will deliver immediate possession of the premises. And it is further agreed, by and between the parties, in case a bill is filed in any court to foreclose this mortgage for non-payment of either principal or interest, that the mortgagor will pay a reasonable solicitor's fee and the same shall be included in

the decree and be taxed as costs, and we, A B., and C, wife of A B., hereby release all right to the said premises which we may have by virtue of any homestead laws of this state, and in consideration of the premises, C, wife of A B., doth hereby release to said board all her right and title of dower in the aforegranted premises for the purpose aforesaid.

In testimony whereof, we have hereby set our hands and seals, this..... day of.....18.....

A B (Seal.)
C B (Seal.)

Which mortgage shall be acknowledged and recorded as is required by law for other conveyances of real estate, the mortgagor paying expenses of acknowledgment and recording.

On payment of any school mortgage in full, it shall be the duty of trustees of schools to give a deed of release of such mortgage, or to enter satisfaction thereof upon the record, such deed of release or satisfaction to be executed by the township treasurer.

106. Breach—Valuation. § 8. Upon the breach of any condition or stipulation contained in said mortgage, an action may be maintained and damages recovered as upon other covenants; but mortgages made in any other form to secure payment, as aforesaid, shall be valid as if no form had been prescribed. In estimating the value of real estate mortgaged to secure the payment of money loaned under the provisions of this law, the value of improvements liable to be destroyed may be included, but in any such case said improvements shall be insured for the insurable value thereof in some safe and responsible insurance company or companies, and the policy or policies of insurance shall be transferable to the board of trustees as additional security for any loan, and shall be kept so insured until the loan is paid.

107. Additional security. § 9. In all cases where the board of trustees shall require additional security for the payment of money loaned, and such security shall not be given, the township treasurer shall cause suit to be instituted for the recovery of the same, and all interest thereon to the date of judgment; *Provided*, that proof be made of the said requisition.*

Additional Security. Whenever the trustees require additional security upon any loan, they should make an order to that effect and record it; and the treasurer should serve the borrower with a copy of the order, signed by the president, and himself as clerk. If additional security is not furnished as required, suit may be brought at once on the note if it be a loan on personal security, or for foreclosure, if it be a loan on real estate. The law on this

*Form No. 25.

subject forms a part of the contract. [*Trustees* v. *Davison*, 65 Ill., 124.]

108. Preference. § 10. In the payment of debts by executors and administrators, those due the common school or township fund shall have a preference over all other debts, except funeral expenses, the widow's award, and the expenses attending the last sickness, not including the physician's bill. And it shall be the duty of the township treasurer to attend at the office of the probate judge, upon the proper day, as other creditors, and have any debts, as aforesaid, probated and classed, to be paid as aforesaid.

Treasurer to Probate Claims—Interest. A debt due the school fund from the estate of a deceased person is made a preferred claim by the statute on administration [*Chap.* 3, *Sec.* 70, *Rev. Stat. Ill.*], and it is the duty of the treasurer to present such claim in due season. A failure to present within two years a claim against the estate of a deceased person who was principal on a note will release the sureties and throw the loss upon the treasurer. [*Chap.* 132, § 3, *Rev. Stat. Ill.; Curry* v. *Mack*, 90 Ill., 603; *McHenry* v. *Trustees*, 68 Ill., 140.]

Probated claims draw but six per cent. interest.

109. Default on interest. § 11. If default is made in the payment of interest due upon money loaned by any county superintendent, or township treasurer, or in the payment of the principal, interest at the rate of twelve per cent. per annum shall be charged upon the principal and interest from the day of default, which interest shall be included in the assessment of damages, or in the judgment in the suit or action brought upon the obligation to enforce payment thereof, and interest as aforesaid may be recovered in an action brought to recover interest only. The said township treasurer is hereby empowered to bring appropriate actions in the name of the board of trustees, for the recovery of the yearly interest, when due and unpaid, without suing for the principal, in whatever form secured, and justices of the peace shall have jurisdiction of such cases of all sums not exceeding two hundred dollars.

1. *Treasurer may bring Suit.* If default be made by the borrower in the payment of interest and principal, the township treasurer may institute suit for the recovery of

the same without an order from the board of trustees. It is to be presumed that he will avail himself of the advice and approval of the trustees, and obtain an order from them before commencing an action; but such are his legal relations and obligations to the township fund that, when circumstances require, he may proceed in the premises without a formal order from the board of trustees. And if any loss accrues from his neglect in this particular, he and his secutities become liable [**118** and **278**], unless he acted, or was warranted in his failure to act, by an order of the board of trustees, entered upon their journal and subscribed by the president and clerk; in which case, if loss accrues, the trustees become responsible.

2. *Computation and Calculation of Extra Interest.* In order to collect the twelve per cent. interest upon principal or interest on which default has been made, it must be declared for as a penalty. [*Sexton* v. *School Commissioners*, 19 Ill., 51.]

Considerable confusion and doubt have existed among treasurers and others relative to the true method of proceeding under **109**, where the interest or principal (or both) of school money loaned, is not paid when due, or has to be collected by law. The meaning of the law, and the duty of parties interested, will appear from the following analysis:

Three cases may arise: First, when the interest only is in default; second, where the principal only is in default; and, third, where both principal and interest are in default. If the interest only is in default, twelve per cent. per annum must be assessed upon said interest, from the day of default. Thus, if a note is given for $100, for one year, at ten per cent., and the interest is a year in default, the amount of interest due by law is $10, added to twelve per cent. of $10, or $11.20. If the principal only is in default, twelve per cent. per annum must be assessed upon said principal from the day of default. Thus, if the above mentioned note should be collected a year after maturity, there would be due $100, added to twelve per cent. of $100, or $112.

If both interest and principal are in default, there will be due, first, The interest of the note from date of matur-

ity; second, Twelve per cent. per annum upon that interest; third, The principal of the note; fourth, Twelve per cent. per annum upon that principal, from due till paid. Thus, if both interest and principal of the aforesaid note should remain wholly unpaid for two years, there would be due, the interest for one year ($10), and twelve per cent. of that interest ($1.20), and the principal ($100), and twelve per cent. of that principal for one year ($12). Adding these several sums together gives $123.20, the full amount due on final settlement. Proceed in the same way in any other case.

A general rule, when both interest and principal are in default, is as follows: (1) Find the interest on the note from date to maturity, at the given rate per annum, and to said interest add twelve per cent. per annum thereof. (2) Find twelve per cent. per annum of the principal from maturity to settlement, and add the same to said principal. (3) Add the sums obtained under the two foregoing heads, and the result will be the amount due on final settlement. In other words, to the principal of the note add as follows: (1) Interest at the rate prescribed in the note, from date to maturity. (2) Twelve per cent. per annum of said interest. (3) Twelve per cent. per annum on said principal from maturity to settlement.

On this subject the supreme court says:

"Two classes of cases are embraced by this act; one, where interest is due and unpaid; the other, where principal is due and payable. In the former case, the amount of unpaid interest bears interest at the rate of twelve per cent per annum; and it may be sued for and recovered in a separate action. In the latter case, the principal debt bears interest at the rate of twelve per cent. per annum, from the time it falls due. The provisions of this act do not apply to the principal when the debtor is in no default respecting it. It is only when the principal is due and payable that the rate of interest upon it is increased. This, we are satisfied, was the real intention of the legislature, although it must be admitted that the intention is not as clearly expressed as in the act of 1835. A different construction would render the law highly penal in its character. If twelve per cent. interest was to be charged upon

the principal on every failure to make a payment of interest, it would operate very severely upon the debtor. Loans are made for five years; and the penalty for failing to pay a few installments of interest might exceed the principal debt. Such a construction ought not to be put upon the law, unless it manifestly appears that it was the design of the legislature." [*Trustees* v. *Bibb*, 14 Ill., 371.]

110. Suits. § 12. All suits brought or actions instituted under the provisions of this act may be brought in the name of the trustees of schools of township No....., range No .... , except as provided for *qui tam* actions, or actions in favor of county superintendents.

Suits. The suits which may be brought by trustees are suits relating to school township and school district property.

111. To hold moneys—To keep fund loaned. § 13. The said township treasurer shall demand, receive and safely keep, according to law, all moneys, books and papers of every description belonging to his township. He shall keep the township funds loaned at interest; and if, on the first Monday in October in any year, there shall be any interest or other funds on hand which shall not be required for distribution, such amount not required as aforesaid, may, if the board of trustees see proper, forever be considered as principal in the funds to which it belongs, and loaned as such.

1. *Demand for Moneys, Books and Papers.* It is the right and duty of township treasurers to demand that all moneys, books and papers of every description, belonging to his township, be delivered to him, and he must receive and safely keep the same according to law.

This provision of the statute relates only to funds belonging to the school township. For the right to demand and to hold district funds, see **63; 146,** *fourth*; **210.**

The "books and papers" to be demanded and safely kept include all books of record and account, all deeds of school property and all teachers' schedules on file. These form a part of the official documents of the treasurer's office, and their preservation may, hereafter, be of much legal and historical importance.

No official papers can lawfully be destroyed.

2. *Must Keep Funds at Interest.* Township treasurers are required to keep the principal of their respective township

funds constantly loaned at interest, and no part of said principal can be permitted to remain unproductive, without a violation of law.

3. *Additions to Township Funds.* The purpose of the law is to distribute the interest on the fund; there nowhere appears any purpose to build up the principal out of the income. Hence it would appear that the trustees should not exercise the power here given them so long as the districts of the township are raising money by taxation for the support of schools. See, also, **237.**

112. Report. § 14. On the first Mondays in April and October of every year, the township treasurer shall lay before the board of trustees a statement showing the amount of interest, rents, issues and profits that have accrued or become due since their last regular half-yearly meeting, on the township lands and township funds, and also the amount of state and county fund interest on hand. He shall also lay before the said trustees all books, notes, bonds, mortgages, and all other evidences of indebtedness belonging to the township, for the examination of the trustees, and shall make such other statement as the board may require, touching the duties of his office.

Treasurer's Statement to Trustees. The treasurer must make to the trustees at both regular meetings a statement concerning the township fund, particularly with regard to the income and other funds held for distribution, in order that they may make the apportionment as required by **55.**

113. Financial exhibit. § 15. The said township treasurer shall make out, annually, and present to the board of trustees, at their meeting succeeding the annual election, a complete exhibit of the fiscal affairs of the township, and of the several districts or parts of districts in the township, showing the receipts of money, and the sources from which they have been derived, and the deficit and delinquencies, if there be any, and the cause, as well as a classified statement of moneys paid out, and the amount of obligations remaining unpaid.

October Statement. At the October meeting he must make a fuller statement, which shall include all the district accounts. It is the duty of the trustees to audit all these accounts with care.

114. Statements to directors. § 16. The township treasurer shall, within two days after the first Monday of April, and on July fifteenth in each year, make out for

each district or part of district in the township, a statement or exhibit of the exact condition of the account of such district or part of district, as shown by his books on April first and June thirtieth of each year;* which statement or exhibit shall show the balance at the time of making the last exhibit and the amount received since up to the time of making the exhibit, and when and from what source received; and it shall also show the amount paid out during the same time, to whom paid, and for what purpose, and shall be balanced and the balance shown. It shall be the duty of said treasurer to comply with any lawful demand the said trustees may make as to the verification of any balance reported by said treasurer to be on hand. The exhibit shall be subscribed and sworn to by the treasurer before any officer authorized to administer an oath, and shall then, by the treasurer, be, without delay, delivered or transmitted by mail to the clerk of the board of directors of the proper district. It shall be the duty of the said clerk, upon receiving such exhibit, to enter the same upon the records of the district, and, at the next annual election of directors thereafter, to cause a copy thereof to be posted up at the front door of the building where such election is held.

1. *Treasurer's Statement to Directors.* There should be no failure on the part of the treasurer to make these statements to the several districts promptly. These exhibits will enable the directors to proceed understandingly in making their expenditures and in levying their taxes. The statements should be recorded and the originals kept on file.

2. *Verification.* The verification of the cash by actual count is an essential part of every examination, and should be made upon a purely business basis; the personal relations existing between the trustees and the treasurer should not interfere with making it.

115. Penalty. § 17. For a failure on the part of the treasurer, clerk of any board of directors, or any director, to comply with any of the requirements of the preceding sections of this article, he shall be liable to a penalty of not less than five dollars, ($5) nor more than fifty dollars ($50), to be recovered before any justice of the peace of the county in which the offense is committed.

116. Interest on upaid teacher's orders. § 18. When any order, drawn for the payment of a teacher, is pre-

* Form No. 26.

sented to the township treasurer for payment, and is not paid for want of funds, the said treasurer shall make a written statement over his signature by an endorsement on such order, with date, showing such presentation and non-payment, and shall make and keep a record of such endorsement. Such order shall thereafter draw interest at the rate of eight per cent. per annum until paid, or until the treasurer shall, in writing, notify the clerk of the board of directors that he has funds to pay such order; and of said notice the said treasurer shall make and keep a record; after giving said notice he shall hold the funds necessary to pay such order until it is presented for payment, and such order shall draw no interest after the giving of said notice to said clerk of the board.*

Interest on Teacher's Orders. When a teacher has delivered his schedule, in due form, to the directors, he should be given his order promptly, which should be, as drawn by them, a sight, non-interest bearing order. This the teacher presents to the treasurer for payment. If it cannot be paid, the treasurer must endorse it as provided in the statute and make a record of the same. From that date the order draws interest at the rate of eight per cent. per annum. But whenever the treasurer receives funds out of which the order may be paid, he must notify in writing the clerk of the board issuing the order to that effect and hold the funds to pay it on presentation. He must make a record of the notice. Some provision of this kind for stopping interest on orders was found necessary in order to prevent their being held, with the interest running, for a long time after the treasurer could pay them; it is also allowable since, though negotiable, such orders do not stand upon the same footing as ordinary commercial paper. The holder takes them subject to all the provisions of the statute, which he is presumed to know.

117. Official duties. § 19. In addition to the foregoing requirements, it shall be the duty of the said township treasurer—

First—To return to the county clerk of his county, on or before the second Monday of August in each year, the certificate of tax levy made by each board of school directors in his township.

*Form No. 27.

Second—To pay, whenever he has funds in his hands belonging to the district, all lawful orders drawn on him by the board of directors of any school district in his township.

Third—To collect, from the collector of taxes of the township and the county collector of taxes, the full amount of the tax levies made by the several boards of directors in his township.

Fourth—To examine the official record of each school district in the township on the first Mondays in April and October of each year.

Fifth—To keep a correct account between the districts where pupils are transferred by the directors from one district to another.

Sixth—To give, upon the order of the trustees of schools, notice of the election of trustees, as required by law.

Seventh—To give, in case of the formation of a new school district, notice of the election of a board of school directors.

Eighth—To cause to be published in some newspaper published in his county an annual statement of the finances of the township, as required by law.*

Ninth—To make, whenever a change has been made in the boundaries of a school district, a complete copy of the records of the trustees, a map of the township showing such change of boundaries, and an accurate list of the taxpayers in the newly arranged districts, and file the same with the county clerk within twenty days of the time such change was made.

Tenth—To file and safely keep all poll-books and returns of election which may be delivered to him under any provisions of this act.

Eleventh—To receive and safely keep all moneys, securities, papers and effects belonging to the township or the school districts, which, by law, are required to be deposited with such treasurer.

Township Treasurers to publish Statement. A statement such as this act requires must be published each year by the township treasurer. The phrase "at the expiration of each fiscal year" has no particular meaning as applied to a school treasurer's affairs. It is believed that a publication made just after the April meeting of the trustees will be of more interest to the people than at any other time, since their attention is called to school matters then by

*Form No. 28.

the occurrence of the school elections. The treasurer can as easily make up the statement then as at any other time. It is, therefore, advised that the statement required be published in April, shortly after the trustees' meeting. But it is not held that a publication at some other period would not be timely.

The statement must be made with enough of detail to show the sources of the receipts, and the purposes of the expenditures.

118. Penalty—Release. § 20. For any failure or refusal to perform all the duties required of the township treasurer by law, he shall be liable to the board of trustees, upon his official bond, for all damages sustained, to be recovered by action of debt by said board, in their corporate name, for the use of the proper township, before any court having jurisdiction of the amount of damages claimed; but if such treasurer, in any such failure or refusal, acted under and in conformity to a requisition or order of said board, or a majority of them, entered upon their journal and subscribed by their president and clerk, then, and in that case, the members of the board aforesaid, or those of them voting for such requisition or order aforesaid, and not the treasurer, shall be liable, jointly and severally, to the inhabitants of the township for such damages, to be recovered by an action of assumpsit in the official name of the county superintendent of schools, for the use of the proper townships: *Provided*, that said township treasurer shall be liable for any part of the judgment obtained against said trustees which can not be collected on account of the insolvency of such trustees.

Release of Treasurer. It is difficult to say how far the treasurer may be released from his responsibility under the law by any action of the trustees. But if we may judge from the two cases passed upon by the supreme court in which such release was claimed, the treasurer will not readily secure immunity. That he should not is evident; for he alone gives a bond, while the trustees are not under bond, and, in some instances, are not financially responsible.

The burden of proving the order of the board rests upon the treasurer. The trustees must formally order the act, or the responsibility will not be transferred to them. [*Trust-*

ees v. *Misenheimer*, 78 Ill., 22; *Lovingston* v. *Trustees*, 99 Ill., 564; *Trustees* v. *Baker*, 24 Ill. App. (Smith), 231.]

119. Delivery to successor. § 21. Whenever a township treasurer shall resign or be removed, and at the expiration of his term of office, he shall pay over to his successor in office all money on hand, and deliver over all books, notes, bonds, mortgages, and all other securities for money, and all papers and documents of every description in which the corporation has any lawful interest whatever. And in case of the death of the township treasurer, his securities and legal representatives shall be bound to comply with the requisitions of this section, so far as the securities and legal representatives may have the power so to do. And for a failure to comply with the requisitions of this section, the persons neglecting or refusing shall be liable to a penalty of not less than ten dollars ($10) nor more than one hundred dollars ($100) at the discretion of the court before which judgment may be obtained, to be recovered in an action of debt, in the name of the trustees of schools, before any justice of the peace, for the benefit of the school fund of such township: *Provided*, that the obtaining or payment of such judgment shall in no wise discharge or diminish the obligation of the persons signing the official bond of such township treasurer.

Treasurer must turn over Moneys, etc., to Successor. When a township treasurer resigns, or is removed, or when his term of service expires, he is required to turn over to his successor all funds, books and papers belonging to the township. His official bond is also expressly so conditioned. If he fail to comply with this obligation, and neglect or refuse to turn over all moneys and papers to his successor, he is not only liable on his official bond, but also to a separate and special penalty of not less than ten nor more than one hundred dollars; the payment of which leaves him still liable, as fully as before, upon his official bond. In case suit should be necessary to compel the treasurer to turn over the funds and papers of the township to his successor as aforesaid, it should be brought by the township trustees, in their corporate name, in an action of debt, or replevin, or both.

As to the extent of the treasurer's liability, see **99,** *note* 4, and cases there cited.

The criminal code prescribes a heavy punishment for any officer who fails to turn over moneys, etc., to his successor on demand. [*Chap.* 38, §§ 215–219, *Rev. Stat.*]

120. Compensation. § 22. The township treasurers shall receive in full, for all services rendered by them, a compensation to be fixed, prior to their election, by the board of trustees.

Township Treasurers' Compensation. The township treasurer is appointed in the even-numbered years at the meeting for organization held by the trustees within ten days after the election in April. [**51,** *note* 2.] The salary, as fixed, is for all services, both as clerk of the board of trustees and as treasurer; and he may be given no additional compensation during his term of office for the performance of any duties connected therewith. The statute in express terms forbids any such additional compensation. [*Lovingston* v. *Trustees,* 99 Ill., 564.]

ARTICLE V.

BOARD OF DIRECTORS.

§ 1. Board of directors in districts with less than 1,000 inhabitants.
§ 2. Board of directors a body politic.
§ 3. Eligibility of school directors.
§ 4. Non-residence creates a vacancy.
§ 5. Annual election and term of office.
§ 6. Election in new districts.
§ 7. Vacancies.
§ 8. Notices of election.
§ 9. Election in certain cases ordered by township treasurer or county superintendent.
§ 10. Judges; postponement; election on any Saturday.
§ 11. A tie vote.
§ 12. Delivery of the poll book, and filing the same; certificate.
§ 13. Poll book in union district.
§ 14. Penalty for failure to deliver the poll book.
§ 15. Organization of the board.
§ 16. Quorum.
§ 17. Records.
§ 18. Meetings.
§ 19. Business to be done at regular or special meeting.
§ 20. President or clerk *pro tempore.*
§ 21. Report of the organization.
§ 22. Reports of statistics, etc.
§ 23. Not to be interested in school contracts.
§ 24. Not to be interested in sale of school books, etc.
§ 25. Liable to indictment and fine.
§ 26. Duties defined.
§ 27. Additional powers defined.
§ 28. Orders on demand.
§ 29. Orders in anticipation of taxes.
§ 30. Liable for balance due teachers.
§ 31. Vote of the district required to locate school site, etc.
§ 32. Compensation for school site.
§ 33. Removal by the county superintendent.
§ 34. Funds paid out upon orders; form of order.
§ 35. Transfer of pupils; separate schedules.
§ 36. Directors collect amount due from transfer pupils.

121. Directors. SECTION 1. In all school districts having a population of less than one thousand inhabitants, and not governed by any special act in relation to free schools now in force, there shall be elected in the manner hereinafter provided for, a board of directors to consist of three members. [As amended by an act approved June 1, 1889.]

122. Body corporate and politic. § 2. The directors of each district are hereby declared a body politic and corporate, by the name of "school directors of district No. ....., township No....., range No....., county of ....., and State of Illinois," and by that name may sue and be sued in all courts and places whatever.

1. *The School Corporation, how questioned—Its Purposes.* The legality of the existence of a district can be questioned in a direct proceeding only. [*People* v. *Trustees*, 111 Ill., 171.]

In the absence of record evidence of its establishment its existence may be proved by reputation. [*State* v. *Bradley*, 54 Conn., 74.]

The corporation here created, like the school township, is created solely for school purposes, as a part of the machinery necessary for the maintenance of a system of public schools. Paraphrasing a paragraph in *The People* v. *Trustees*, 78 Ill., 136, the principle can be thus stated: The school districts were created and are continued for school purposes alone, and not for municipal purposes. They are only intended to establish schools, and pay the teachers of schools taught in their jurisdiction. This is the purpose of their organization. They were not created to exercise any of the functions of government, and hence are not municipal in their nature or purpose, nor are they provided with the officers or the power to exercise the functions of government. Cities, towns and villages are endowed with such powers and are created and maintained for their exercise. Their very object is to aid in the government of the people. And such is true, in a more limited sense of counties. But none of these functions are conferred upon school districts: their creation is purely to aid in the great scheme of accomplishiug universal education.

2. *Quorum—Liabilities.* Upon a quorum, see **54**, *note* 2, and **136.**

The liability of school directors for debts due teachers and others, is a corporate, not an individual, liability; provided, always, that there is no corporate liability unless the debt has been legally contracted.

3. *Legal Contracts.* That a debt be legally contracted by a school board these two things must concur: (1) The debt must be for a school purpose under the law. (2) The conditions essential to empower directors to contract the debt must exist; for instance, the board must be assembled in its corporate capacity; the person with whom they would contract to teach must have a valid certificate for the term of the proposed contract; a vote of the people to build must precede a contract with a builder, etc.

Since directors are a corporation, their acts and contracts are binding upon their successors. But one board may not, unnecessarily, make contracts which will extend beyond its term. [*Stevenson* v. *Directors*, 87 Ill., 255.]

4. *Directors not liable personally.* A contract made by the board in its official capacity does not bind the members personally, even though they do not put their official title to their signatures. [*Lyon* v. *Adamson*, 7 Ia., 509; *Harvey* v. *Irwin*, 11 Ia., 82.]

123. Eligibility. § 3. Any person, male or female, married or single, of the age of twenty-one years and upwards, who is a resident of the school district, and who is able to read and write in the English language, shall be eligible to the office of school director: *Provided*, that no person shall be eligible to the office of school director who is at the time a member of the board of school trustees.

This paragraph of the law is of course to be taken subject to the limitation of the constitution art. 7, § 6 that an office holder must be a citizen of the United States and must have been a resident of the state for one year.

124. Removal causes vacancy. § 4. If any director shall, during the term of his office, remove from the district in which he was elected, his office shall thereby become vacant and a new director shall be elected, as in other cases of vacancy in office.

125. Date of election. § 5. The annual election of school directors shall be on the third Saturday of April, when one director shall be elected in each district, who shall hold his office for three years, and until his successor is elected.

126. First election—Term of office. § 6. In new districts the first election of directors may be on any Saturday, notice being given by the township treasurer, as for the election of trustees, when three directors shall be elected

who shall, at their first meeting, draw lots for their respective terms of office, for one, two and three years.

127, Vacancies. § 7. When vacancies occur, the remaining director or directors shall, without delay, order an election to fill such vacancies, which election shall be held on Saturday.

128. Notices. § 8. Notices of all elections in organized districts shall be given by the directors at least ten days previous to the day of said election. Said notices* shall be posted in at least three of the most public places in the district, and shall specify the place where such election is to be held, the time of opening and closing of the polls, and the question or questions to be voted on.

1. *Election of Directors.* What has been said upon the provisions of the law with regard to the elections of trustees and the questions connected therewith applies also to the above sections concerning the election of directors. [*See notes to* **37, 40, 41, 42, 43, 46, 49**; *also see* **310-312**.]

2. *How long the Polls shall be Open.* The law does not indicate at all how long the polls should be kept open. This matter is left for the directors to determine, and they should make the time long enough for all to vote.

3. *Election upon Special Questions.* Except in the case when a school township maintains a township high school there are no questions to submit to the voters at a township school election; such elections are held for the sole purpose of electing trustees. But the voters of a school district at either the regular or a special election may be asked to vote upon some other question or questions. These are:

(1) To borrow money. [*Art.* 9.]
(2) To refund bonds. [**221**.]
(3) To purchase or locate a school house site. [**151**.]
(4) To purchase or build a school house. [**151**.]
(5) To move a school house. [**151**.]
(6) To levy a tax to extend the school beyond nine months. [**151**.]
(7) To add "other branches" to the course of study. [**190**.]
(8) If the district has not less than one thousand in-

* Form No. 29.

habitants, it may vote upon a question as to changing district lines. [**78.**]

In regard to the first six of these questions, directors are forbidden to act without a vote.

4. *Vote upon other Matters of no Legal Effect.* In all other district affairs the school board acts without a vote of the people; and a vote upon any other question than those named above, as upon employing a certain person for a teacher, is advisory only, and is not binding upon the board. "The electors can exercise such powers only as are conferred by statute either expressly or by reasonable implication." [*School District* v. *Harvey*, 56 Vt., 556.]

5. *Notice.* The notice must state the question or questions to be voted upon. A vote upon a question not represented in the notice is void, even though the question be one which may be the subject of a vote; for the question is not before the people unless stated in the notice.

6. *Ballots.* Votes upon these questions must be by ballot, and the ballot must follow the notice. If the notice presents the question, "To vote for building a school house," the ballots must read "For" or "Against building a school house." If a majority of the ballots should read "For borrowing money to build a school house," the directors would not be empowered by the vote to build, since borrowing money was what was voted upon. Neither would the directors be empowered to borrow money, for that question was not submitted in the notice. In such a case the election would be void, so far as relates to the question submitted.

7. *One Ticket, and but one Balloting.* All the questions to be voted upon and, if there be an election of a director, the name of the person voted for, should be upon one ticket. There can be but one balloting at one election; since for that the polls must be open all the time named in the notice, and by the one ballot the power of the electors to vote under the call made has been exhausted. [*State* v. *Adams*, 58 Vt., 694.]

8. *Questions may be voted on a Second Time.* This subject is considered in **151,** *note* **1.**

9. *Elections, how called.* One director may, if he is the only member of the board left, call an election to choose members of the board; and an election to choose a member or members of the board may be called in the cases named in the law, by the township treasurer or the county superintendent. [**44,** *note.*]

10. *In Union District—In District in two Counties.* If the district in which there is a vacancy lies in two townships, and the remaining director or directors fail to order an election, the two treasurers may jointly order it. If this cannot be done, an election called by either treasurer and duly held would be held to be a sufficient compliance with the law. In the same way, if the both directors and treasurer fail to call an election to fill a vacancy in a district lying in two counties, both county superintendents may call the election jointly; or either may call it.

11. *Special questions submitted by School Board only.* But submitting questions to a vote can be done by order of the board of directors, and in no other way.

12. *Election on What Days.* The regular election and the election to fill a vacancy must be held on Saturday; but one called to vote upon special questions only may be called for any week day.

129. Treasurer or county superintendent may order. § 9. Should the directors fail or refuse to order any regular or special election, as aforesaid, it shall be the duty of the township treasurer to order such election, and if the township treasurer fails to do so, then it shall be the duty of the county superintendent to order such election of directors within ten days, in each case, of such failure or refusal, and the election held in pursuance of such order shall be valid, the same as if ordered by the directors.

Vacancies. The careful provisions of the law for filling vacancies in the board of school trustees have already been seen [**45,** *note* 2], and the same pains is taken to have all vacancies, whether regular or extraordinary, in the board of directors promptly filled. The clear intention is that a director shall not hold over, and that the board shall be full constantly, so that the district may both have the judgment of three men upon the management of its

affairs, and may itself control the membership of the board through the annual election.

130. Judges—Postponement. § 10. Two of the directors ordering such election shall act as judges and one as clerk of such election. But if said directors or any of them shall fail to order an election, to attend, or shall refuse to act when present, and in all unorganized districts and in elections to fill vacancies, the legal voters when assembled shall choose such additional members as may be necessary to act as two judges and a clerk of said election; *Provided*, that if upon the day appointed for said election the said directors or judges shall be of opinion that, on account of the small attendance of voters, the public good requires it, or if the voters present, or a majority of them, shall desire it, they shall postpone said election until the next Saturday, at the same place and hour, when the voters shall proceed as if it were not an adjourned meeting; *And provided also*, that if notice shall not have been given as above required, then said election shall be ordered as aforesaid and holden on any Saturday, notice thereof being given, as aforesaid.

See Judges and Postponement under **40** and **43.**

131. Tie. § 11. In case of a tie vote, the judges shall decide it by lot on the day of the election.

See **46** and *note*.

132. Return. § 12. Within ten days after every election of directors the judges shall cause the poll-book to be delivered to the township treasurer, with a certificate thereon showing the election of said directors and the names of the persons elected; which poll-book shall be filed by the township treasurer, and shall be evidence of said election.

1. *Return of Poll-book.* The original poll-book is to be taken to the township treasurer in the case of every district election. For the effect of a failure to make the return, see **49.**

2. *Township Treasurer Custodian only of Return.* The township treasurer has the same duty in regard to the return of a district election, that the county superintendent has in regard to the return of a township; that is, he must receive and file it. He has no authority of law to declare the election void. Compare **49,** *note* 3.

133. Return of union district. § 13. In case of a union district, made up of parts of two or more townships,

the poll-book shall be returned to the township treasurer who receives the tax money for said district.

134 Penalty. § 14. For a failure to deliver the poll-book within the time prescribed, the judges shall be liable to a penalty of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), to be recovered in the name of the People of the State of Illinois, by action of assumpsit, before any justice of the peace of the county, which penalty, when recovered, shall be added to the township school fund of the township.

135. Organization. § 15. The directors, within ten days after the annual election of the directors, shall meet and organize by appointing one of their number president, and another of their number clerk of such board of directors.

Organization of Board of Directors. The board of directors is required to meet and organize within ten days of the election; but by a failure to organize within the time named, the directors do not vacate their offices; the duty to meet and organize continues, and should be performed so that the board may be ready to enter upon its official work. The members make themselves liable to a fine [**284**] by neglecting the mandate of the law.

136. Quorum. § 16. Two directors shall be a quorum for business.

See **54**, *note* 2.

137. Records. § 17. The clerk of such board of directors shall keep a record of all the official acts of the board in a well bound book provided for that purpose, which record shall be signed by the president and clerk, and shall be submitted to the township treasurer for his inspection and approval on the first Mondays of April and October, and at such other times as the township treasurer may require.

Records. The duty of the clerk of the board is to keep in permanent form *a record of all the official acts* of the board. A subsequent clause of the section authorizes the board to purchase a suitable book, and says "the said records shall be kept in a punctual, orderly and reliable manner." The record of each meeting should be written up immediately after the meeting and signed by the president and clerk. It is of the utmost importance that every school board keep such a record as this. "Lack of such official records," says one who knows, "has caused more lawsuits and losses, more confusion and trouble, in

the financial and general business administration of the school system than any other thing." The record book of the district should contain a full history of its school affairs. Dates, names, resolutions, votes, etc., should be given with such exactness that no trouble can arise which a reference to its pages will not help to settle. Financial statements and reports should be spread out on the record book. Documents that are merely filed are soon lost.

138. Meetings. § 18. The board of directors shall hold regular meetings at such times as they may designate; and they may hold special meetings as occasion may require, at the call of the president or any two members.

Meetings. The directors ought to hold a regular meeting once a month while the school is in session, in order to examine and approve the schedules, issue teacher's orders and consult with him over the interests of the school; and it will be well to continue such meetings through the year. If they will take this course, referring particularly to the regular meeting all strangers who attempt to deal with them individually, they will have little occasion for special meetings, and the business of the board will be conducted more nearly with such deliberation and good judgment as its importance demands, and there will be fewer purchases of high priced lightning rods, and fewer needless changes of text books.

What has been said in **54,** *note* 1, with regard to special meetings of trustees applies with equal force to similar meetings of directors, and the decisions of the courts cited there control here also.

139. No business except at meetings. § 19. No official business shall be transacted by the board except at a regular or special meeting.

Business to be transacted at Meetings. This clause is of special significance.

Members of a school board, acting individually, can bind neither the board nor the person with whom they attempt to contract. An agreement by members of a school board, acting in their individual capacity, to purchase apparatus, etc., from another person, and to ratify same at the next regular meeting is contrary to public policy and void. [*McCortle* v. *Bates,* 29 O., 418; *Doyle* v. *Gill,* 59 Wis.,

518; *Currie* v. *District*, 35 Wis., 163; *Andrews* v. *District*, 37 Wis., 96; *Stewart* v. *Directors*, 24 Ill. App., (Smith), 229.]

The fact that articles, purchased by one or more of the directors without authority of the board, have been used by the school does not amount to a ratification of the purchase or impose upon the district any obligation to pay for them. [*Johnson* v. *School District*, 67 Mo., 319.]

An order not authorized, or allowed, or executed at a legal meeting is void. [*Mincer* v. *School District*, 27 Kas., 253.]

The action of a majority of a school district board will not bind the district, without notice to or participation therein of the other member. [*People* v. *Peters*, 4 Neb., 254.]

140. President or clerk absent. § 20. If the president or clerk be absent from any meeting, or, being present, refuses to perform his official duties, a president or clerk *pro tempore* shall be appointed.

141. Report to treasurer. § 21. The clerk of each board of school directors shall report to the township treasurer or treasurers of the proper township or townships, immediately after the organization of the **board**, the names of the president and clerk of such board.

Report of names. It is necessary that the treasurer have the names of the president and secretary of each board of directors, in order that he may have a check upon the signatures of their orders.

142. Statistical report. § 22. On or before the seventh day of July annually, the clerk of each board of directors shall report to the township treasurer having the custody of the funds of such district, such statistics and other information in relation to the schools of his respective district as the township treasurer is required to embody in his report to the county superintendent, and the particular statistics to be so reported shall be determined and designated by the state superintendent of public instruction, or by the county superintendent.

For the value and desirableness of accurate statistical reports, see **23**.

For penalties for neglect to make a report and for making a false report, see **283**.

143. Interest in contract forbidden. § 23. No director shall be interested in any contract made by the board of which he is a member.

1. *Directors must not be interested in Contracts.* A very explicit interpretation of this clause has been given by our supreme court in *School Directors* v. *Parks*, 85 Ill., 338. In this case suit was brought to recover from Parks two sums of money which had, it was alleged, been paid him on orders drawn by the other two members of the board for labor in repairing the school house and for fuel furnished while he was a director. The court held that the statute then in force—it is the same now—absolutely prohibited a director from being interested in any contract made by the board of which he was a member. This embraces every contract whether express or implied, by virtue of which money can be drawn from the treasurer; and it cannot be evaded by appropriations or payments from the treasurer for labor performed, or materials furnished for the benefit of the district, on the pretext that they were performed or furnished without any contract but, being beneficial to and enjoyed by the district, should be paid for as a matter of justice. Both the letter and the spirit of the law forbid that directors shall, in anywise, whether directly or indirectly, openly or covertly, become interested in demands or claims, originating while they are directors, to be satisfied by payments from the funds of their districts; and this construction must be rigidly enforced by the courts, without regard to the moral or equitable considerations that may urge a different policy in particular cases.

2. *Directors may not be paid for Services.* Except that the director who is clerk of his board may be paid for his clerical services, both directors and trustees are forbidden by this clause of the law to draw pay for any services they may render the district and the township whose officers they are.

3. *A Director may not be a Teacher.* The director may not be employed to teach in his district.

4. *Employment of a Minor Child of a Member of the Board.* The school board may not employ the minor child of one of its members as a teacher, if the relations between the parent and the child are such that the father may lawfully claim the child's wages.

5. *Bonds bought by a Member of the Board.* A member of a school board can not enforce the payment of bonds issued to to him while a member, even when there is no question that the bonds were taken with no dishonest intent and paid for in cash at par. [*Hewett* v. *Board of Education,* 94 Ill., 528.]

6. *Lot sold to the Board and Money loaned it by a Member.* Neither can payment be compelled for a lot sold the district for a school site by a director; nor for money furnished, with which the school house has been built. [*Directors* v. *Miller,* 54 Ill., 338.]

144. Interest in sale of books, etc. § 24. No director shall be interested in the sale, proceeds or profits of any book, apparatus or furniture, used, or to be used, in any school in this state, with which he may be connected.

145. Penalty. § 25. Any person offending against the provisions of the two preceding sections shall be liable to indictment, and, upon conviction, shall be fined in any sum not less than twenty-five dollars ($25), and not more than five hundred dollars ($500), and may be imprisoned in the county jail not less than one nor more than twelve months, at the discretion of the court.

146. Official duties. § 26. It shall be the duty of the board of directors of each district—

First—At the annual election of directors, to make a detailed report of their receipts and expenditures to the voters there present, and transmit a copy of such report to the township treasurer, within five days from the time of said election.

Second—To report to the county superintendent, within ten days after their employment, the full names of all persons employed as teachers, the date of the beginning and the end of their contract.

Third—To provide for the necessary revenue to maintain free schools in their district, in the manner provided for in article 8 of this act.

Fourth—When a district is composed of parts of two or more townships, the directors shall determine and inform the collectors of said townships, and the collector or collectors of the county or counties in which said townships lie, in writing, under their hands as directors, which of the treasurers of the townships from which their district is formed, shall demand and receive the tax money collected by the said collector, as aforesaid. (*a*)

Fifth—To establish and keep in operation, for at least one hundred and ten (110) days of actual teaching, in

each year, without reduction by reason of closing schools on legal holidays, or for any other cause, and longer if practicable, a sufficient number of free schools for the accommodation of all children in the district, over the age of six (6) and under twenty-one (21) years, and shall secure or all such children the right and opportunity to an equal education in such free schools. (*b*)

Sixth—To adopt and enforce all necessary rules and regulations for the management and government of the schools. (*c*)

Seventh—To visit and inspect the schools from time to time as the good as the schools may require. (*d*)

Eighth—To appoint all teachers and fix the amount of their salaries.* (*e*)

Ninth—The directors shall direct what branches of study shall be taught and what text books and apparatus shall be used in the several schools, and strictly enforce uniformity of text books therein, but shall not permit text books to be changed oftener than once in four years, but shall prohibit such change. (*f*)

Tenth—The directors shall have power to purchase, at the expense of the district, a sufficient number of the text books used, to supply children whose parents are not able to buy them. The text books bought for such purpose shall be loaned only, and the directors shall require the teacher to see that they are properly cared for and returned at the end of each term of school. (*g*)

Eleventh—The directors shall on or before the seventh day of July, annually, deliver to the township treasurer, all teachers' schedules made and certified as required by the provisions of article 7 of this act, covering all time taught during the school year, ending June 30th, and the directors shall be personally liable to the district for any loss sustained by it, through the failure of the directors to examine and so deliver such schedules within the time fixed by law. (*h*)

Twelfth—The directors shall not pay out any public money to any teacher unless such teacher shall, at the time of his or her employment, hold a certificate of qualification, obtained under the provisions of this act, covering the entire period of his or her employment.

Thirteenth—The directors shall not pay any public funds to any teacher, unless such teacher shall have kept and furnished schedules as required by this act, and shall have satisfactorily accounted for books, apparatus and other property of the district that he may have taken in charge.

*Form No. 31.

Fourteenth—The directors shall pay teachers' wages monthly. Upon the receipt of schedules, properly certified, the directors shall at once make out and deliver to the teacher an order upon the township treasurer for the amount named in the schedule; which order shall state the rate at which the teacher is paid according to his contract, the limits of time for which the order pays, and that the directors have duly certified a schedule covering this time. But it shall not be lawful for the directors to draw an order until they have duly certified to the schedule; nor shall it be lawful for the directors after the date of filing schedules as fixed by law, to certify any schedule not delivered to them before that date by the teacher, when such schedule is for time taught before the first of July preceding, nor to give an order in payment of the teachers' wages for the time covered by such delinquent schedule.

Fifteenth—At the annual election of directors, the directors shall cause a copy of the township treasurer's report of the financial condition of the district, provided by law, to be posted upon the front door of the building where such annual election is held. (*i*)

(*a*) *Funds of Union District.* The purpose of this provision of the law is that all the funds of union districts may be consolidated in the hands of one treasurer, and that their accounts may be kept with one man instead of with two or more. A further provision of the law is to be found in **240.**

(*b*) 1. *Time to be taught.* There may be no reduction from the one hundred and ten days of teaching required by the law. If the school is closed because of holidays, whether they be legal or special [**201**], or because some contagious disease prevails in the district, such days may not be counted to make the one hundred and ten. It will often happen that the teacher must be paid for days which may not be counted. [*Barksdale* v. *Commissioners*, 93 N. C., 472; **201,** *note* 6; and (*e*), *note* 8, below.

The one hundred and ten days must be school days, and Saturdays, Sundays, and the holidays named in **201** are not school days. Hence, if the school be taught on such a day, the day may not be counted.

Neither may the obligation imposed by the words "more if practicable" be overlooked. One hundred and ten days is a minimum term; nine months is none too long. There

are very few districts in the state so poor that they can justly say they cannot keep up a school for so long a term.

2. *Number of Schools—Renting a House.* Directors must establish a sufficient number of schools for the accommodation of all the children in the district between the ages of six and twenty-one years. It is the imperative duty of the directors to establish as many schools as the wants of their district require. If they should fail or refuse to do this, the inhabitants have a legal remedy. The language of the law is peremptory: The directors "shall establish and keep in operation for at least one hundred and ten days in each year, a sufficient number of free schools for the accommodation of all the children in the district, over the age of six and under twenty-one years." They have no right to crowd fifty children into a house which can accommodate only thirty. If one school house is not sufficient, the directors must enlarge it, or must build another, and yet another, if necessary. In like manner, when the school house is inaccessible, or too remote for the convenience of all, it becomes the duty of the directors to provide a second house, so that all may be accommodated, as far as possible. It is true that directors may not purchase or locate a school site or build a school house thereon without a vote of the people. But if the people will not vote to build, the law is not nullified nor is the school board relieved of its duty to establish a school. It will be justified in leasing and fitting up rooms for the school temporarily. [*Millard* v. *Board of Education*, 19 Ill. App. (19 Brad.), 48.]

3. *May use a House in another District.* The temporary use of a school house situated beyond the limits of a particular district is not unlawful, or incompatible with the spirit and intent of the act, which is to afford the means of common school instruction to all children of lawful age. The necessity may arise through the destruction of their own house, or inability to erect a new one in season, or the need of more room, and in many other ways. In such cases, the school belongs to the district, to all intents and purposes. It is under the charge and control of the board, is subject to all the rules and regulations established by

the board, and is common to the entire district. [*Grove* v. *School Inspectors*, 20 Ill., 532.]

4. *Who may attend School.* The persons to be accommodated are the children in the district over the age of six and under twenty-one years. Children under six are excluded. It is not considered that they are old enough to attend a public school.

As a general rule, the residence of parents is the residence of their children. Boarding children in a district does not, of itself, entitle them to the benefits of the free school in said district. The mere *temporary* residence of a family in a district, solely to enjoy the benefits of the free schools, and with the intention of removal as soon as that purpose is accomplished, does not entitle the children to the privileges of said schools. The removal of a portion of a family from the legal domicile to another district, in order to send to the free schools thereof, does not confer the right to do so. As a general rule, the residence of their parents is the residence of employés; hence the privilege of the free school in another district is not acquired by placing children temporarily at service in that district. This includes those who are placed in families to attend school and do chore-work for their board, etc. The most liberal policy is, however, recommended toward this class of children. The state has as much interest in their education as in that of the more favored; and, although not legally eligible to attend free, the directors should permit them to do so, when not inconsistent with the rights of others and the welfare of the school. Children who have been apprenticed, or adopted into a new family; or who have been placed permanently in the care of others, with no intention of withdrawal; or those over whom parents have relinquished all control from whatever cause; or those who have no parents or guardians, or whose parents or guardians live in another state or country, and exercise no control over their children; or those who have no permanent abode, but go from place to place in search of employment, and whose only home is where they find work—the children included in all the above classes are to be enumerated in the district where they live, and are entitled

to all the rights and benefits of the free schools in said district. Boards of directors are authorized to decide all questions of residence in their respective districts. [*In the matter of Wrigley*, 8 *Wend.*, 134; *Abington* v. *N. Bridgewater*, 23 Pick., 170; *Story's Conflict of Laws*, *Chap.* 3; *Binde* v. *Klinge*, 30 Mo., 285; *State* v. *District*, 65 Wis., 631.]

For admission on a permit of transfer, see **155**, *notes* 1 and 2.

5. *Children must have equal Privileges.* The children of a district must be accorded equal privileges; i. e., there must be one rule for all and no discrimination against any. See, also, **292.**

6. *Night Schools.* For those persons, to be found in all large cities, who are still of school ages but have grown up without acquiring a common school education, and who cannot attend school during the usual hours because they are compelled to work in the daytime, the school boards may maintain night schools. But this class of pupils only should be admitted to such schools. Children under fourteen or fifteen years of age should be required to attend the day schools, and those who are older should not be drawn away from the day schools if they can attend them; the night school should not be permitted to become a rival of the day school.

Persons over twenty-one years of age have no more claim to free instruction in a night than in a day school.

(*c*) 1. *Rules and Regulations, by whom made and how*, The power to make rules for the management of the school is primarily with the school board, and the teacher must comply with such rules so far as they relate to him, and must enforce such as, from his position as teacher, it naturally falls to him to enforce. [*Jacksonville* v. *Akers*, 11 Ill. App. (11 Brad.), 392; *Roberson* v. *Troutt*, 17 Ill. App. (17 Brad.), 386.]

All rules should be formally considered and adopted by the board and made a matter of record. They should also be published to the school. But an informal assent to rules by the board, and a failure to record them will not invalidate them. [*Russell* v. *Lynnfield*, 116 Mass., 365.]

If, however, the board has not made any rules, or has not made all that are necessary, the teacher may make rules or may exercise that authority which of right belongs to his position.

"While the principal or teacher in charge of a public school is subordinate to the school board or board of education of his district or city, and must enforce rules and regulations adopted by the board for the government of the school, and execute all its lawful orders in that behalf, he does not derive all his power and authority in the school and over his pupils from the affirmative action of the board. He stands for the time being *in loco parentis* to his pupils, and, because of that relation, he must necessarily exercise authority over them in many things concerning which the board may have remained silent." [*State* v. *Burton*, 45 Wis., 150; *Sheehan* v. *Sturges*, 53 Conn., 481; *Fertach* v. *Michner*, 111 Ind., 472.]

But it is not necessary that the school board or the teacher endeavor to provide a rule to fit every possible case of wrong doing in school.

"In the school, as in the family, there exist on the part of the pupil the obligations of obedience to lawful commands, subordination, civil deportment, respect for the rights of other pupils, and fidelity to duty. These obligations are inherent in any proper school system, and constitute, so to speak, the common law of the school. Every pupil is presumed to know this law, and is subject to it whether it has or has not been re-enacted by the district board in the form of written rules and regulations. Indeed, it would seem impossible to frame rules which would cover all cases of insubordination and all acts of vicious tendency which the teacher is liable to encounter daily and hourly." [*State* v. *Burton*, 45 Wis., 150.]

2. *Directors may not surrender Control to Others.* No school can be conducted according to law that is not under the exclusive supervision of the directors. Consequently, no select school, that is not under their jurisdiction, and not open alike to all the children in the district, is entitled to any of the school fund. Nor can school directors make any compromise with the trustees of a seminary, academy, or any private institution, by which they agree to surrender any part of their legal jurisdiction and control of the school. No board of directors can surrender the management of their school to any protestant

clergyman, or catholic priest, or to any other person or persons whatever. They would be personally liable for so doing, and the school fund would be forfeited for the whole time that the school was controlled by any persons besides the directors. A teacher who is interfered with or dictated to in respect to the management of his school, by any persons besides the directors, may regard such persons as intruders, and if necessary eject them from his premises. A school ceases to be a public school in the eye of the law, the moment that the control of it is assumed by any person or persons whatever except the directors.

3. *Extent of the Power to make Rules.* In *Rulison* v. *Post*, 79 Ill., 567, the supreme court thus defines the power given school directors to make rules for the management and government of schools:

"In the performance of their duty in carrying the law into effect, the directors may prescribe certain rules and regulations for the government of the schools in their district, and enforce them. They may, no doubt, classify the scholars, regulate their studies and their deportment, the hours to be taught, besides the performance of other duties necessary to promote the success and secure the well-being of such schools. But all such rules and regulations must be reasonable, and calculated to promote the objects of the law—the conferring of such an education upon all, free of charge. The law having conferred upon each child of proper age the right to be taught the enumerated branches, any rule or regulation which, by its enforcement, would tend to hinder or deprive the child of this right can not be sustained. All rules must be adapted to the promotion and accomplishment of this great and paramount object of the law."

4. *Test of the Legality of Rules.* The test questions to be applied to all proposed rules are, first, are they "reasonable"? i. e., do they require the pupils to do that which they may properly do? and, second, are they "calculated to promote the objects of the law" in providing for the common school education of the children of the state? [*Fertach* v. *Michner*, 111 Ind., 472.]

5. *Decisions of the Courts upon certain Rules.* "What are reasonable rules is a question of law, and we do not hesitate to declare that a rule that would bar the doors of the school house against little children who had come

from so great a distance [one and one-half miles] in the cold winter, for no other reason than that they were a few minutes tardy, is unreasonable and therefore unlawful. In its practical operation it amounts to little less than wanton cruelty." [*Thompson* v. *Beaver*, 63 Ill., 353.]

In this case, however, the rule is condemned because of the evil which might follow its enforcement, and not because the object aimed at, prompt attendance, is not desirable; for in another case the court says that school boards "may undoubtedly require that there shall be prompt attendance, diligence in study and proper deportment." [*Trustees of Schools* v. *The People*, 87 Ill., 303.]

Among the rules established by the board in a certain district was this:

"All pupils will be required to bring written excuses from their parents to teachers for absence, and such excuses must be satisfactory and reasonable, otherwise they will not be granted."

The court commented upon the rule as follows:

"The rule in question is not a hard or harsh one. It does not of itself indicate any sinister or malevolent purpose, or wicked force, on the part of the directors. It does not trench upon the rights or dignity of any one. We instantly and properly repel any encroachment upon our rights as citizens. We have a proper pride and ambition in maintaining these rights under any and all circumstances. But I am utterly unable to understand how this simple rule or regulation, requiring the pupil in certain cases to bring a written excuse from its parents to the teacher, is an attack upon, or an abridgement of, our inalienable rights as citizens of this free country." [*Churchill* v. *Fewkes*, 13 Ill. App. (13 Brad.), 520.]

In Wisconsin it has been held that pupils may not be required to bring in fuel.

"While from the necessity of the case much discretion must be left to these boards as to the nature of the rules which are prescribed, yet it can not fairly be claimed that the boards are uncontrolled in the exercise of their discretion and judgment upon the subject. The rules and regulations made must be reasonable and proper, or, in the language of the statute, '*needful*,' for the government, good order and efficiency of the schools—such as will best advance the pupils in their studies; tend to their education and mental improvement, and promote their interest and

welfare. But the rules and regulations must relate to these objects. The boards are not at liberty to adopt rules relating to other subjects according to their humor and fancy, and make a disobedience of such a rule by a pupil cause his suspension or expulsion. We therefore think the rule or regulation requiring the pupil to bring up wood for use in the school-room was one which the board had no right to make and enforce." [*State* v. *Board of Education*, 63 Wis., 234.]

In Iowa it has been held that a pupil may not be punished for an accidental and unintentional injury to school property and a failure to pay for the same:

"By an accident, and without any evil purpose, he broke a window-glass. The rule requires him to pay the damage done, and in default thereof authorizes the directors to exclude him from the school. We may admit that he ought to pay the damages and is liable therefore. But we think his omission to perform this duty cannot be punished by his expulsion from the school. The state does not deprive its citizens of their property, or their liberty, or of any rights, except as a punishment for a crime. It would be very harsh and obviously unjust to deprive a child of education for the reason that through accident and without intention of wrong he destroyed property of the school district. Doubtless a child may be expelled from school as a punishment for breach of discipline or for offenses against good morals, but not for innocent acts."

"In this case the plaintiff was expelled, not because he broke the glass, but because he did not pay the damage sustained by the breaking. His default in this respect was no breach of good order or good morals. The rule requiring him to make payment is not intended to secure good order, but to enforce an obligation to pay a sum of money.

"We are clearly of opinion that the directors have no authority to promulgate or enforce such a rule. [*Perkins* v. *Directors*, 56 Ia., 479.]

6. *Rules with reference to the Conduct of Pupils out of School Hours and away from School Premises.* In Missouri it was held that a rule may be made by the school board forbidding pupils from fighting and using profane language on the way to and from school, and that, for a violation of such rule, a pupil may be punished. [*Deskins* v. *Gose*, 85 Mo., 485.] In some states decisions have been made which give the school authorities some control over pupils and their conduct after they have been home from

school. [*Lander* v. *Seaver*, 32 Vt., 120; *Sherman* v. *Charlestown*, 8 Cush., 160.] But control of pupils when they are not on the school premises may be assumed for the sole purpose of protecting and promoting the welfare of the school. Cognizance may be taken, therefore, of such acts only as directly affect harmfully the discipline and teaching of the school.

"It is not misbehavior generally or towards other persons, or even towards the master in matters in no way connected with or affecting the school. For as to such misconduct, committed by the child after his return home from school, we think the parents, and they alone, have the power of punishment. The misbehavior must not have merely a remote and indirect tendency to injure the school. All improper conduct or language may perhaps have by influence and example, a remote tendency of that kind. But the tendency of the acts so done out of the teacher's supervision, for which he may punish, must be direct and immediate in their bearing upon the welfare of the school, or the authority of the master and the respect due to him.

"Acts done to injure or deface the school-room, to destroy the books of scholars, or the books or apparatus for instruction, or the instruments of punishment of the master; language used to other scholars to stir up disorder and insubordination, or to heap odium and disgrace upon the master; writings and pictures placed so as to suggest evil and corrupt language, images, and thoughts to the youth who frequent the school—all such or singular acts tend directly to impair the usefulness of the school, the welfare of the scholars, and the authority of the master. By common consent and by the uniform custom in our New England schools, the master has always been deemed to have the right to punish such offences. Such power is essential to the preservation of order, decency, decorum, and good government in schools." [*Lander* v *Seaver*, 32 Vt., 114.]

To protect the peace and property of the neighborhood is the duty of the municipality and the state, not of the school authorities. Besides, for obvious reasons, the teacher can not readily direct and control the conduct of pupils when they are beyond his personal supervision, and, hence, the teacher and the school board should take upon themselves no more responsibility for the conduct of pupils when beyond their immediate jurisdiction than a due regard for the efficiency of the school demands. They should

in no case usurp or interfere with the authority of parents and guardians to whose care and custody children are remitted when they are dismissed from school. [*Dritt* v. *Snodgrass*, 66 Mo., 286.]

7. *Tobacco in School.* The school directors may make and enforce a rule forbidding the use of tobacco, in any form, in any school room or in any part of the school building.

8. *The Bible and Religious Exercises in Schools.* The principles governing those concerned in public schools established and maintained by the state, are, or may be, quite unlike those applicable to all other kinds of schools and institutions of learning in respect to the matters now under advisement. Private schools and institutions may be conducted in accordance with the opinions and wishes of their founders and teachers, or of the corporations controlling them; public schools must be conducted in harmony with the letter and spirit of the constitution and laws of the state in which they are established.

In the first article of the amendments to the constitution of the United States, it is declared that "Congress shall make no laws respecting the establishment of religion, or prohibiting the free exercise thereof."

It would seem to follow from this, that any state may establish a religion, and cause the same to be taught in its schools; for if congress can make no law respecting the establishment of religion, it can make no law prohibiting the establishment of it.

It follows, also, that a state may establish a religious test for teachers; and this may be done for teachers of private as well as of public schools.

But the subject is not mentioned or in any manner referred to in the school laws of this state. But all the laws of a state must be made and executed in accordance with the letter and spirit of its constitution. In the second article of the constitution of Illinois it is asserted and declared as follows:

"SECTION 3. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any

civil or political right, privilege or capacity, on account of his religious opinions; * * * * no person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship."

Here is a rule of action as definite as it is practicable to make it, and yet comprehensive and flexible, perfectly adapted to the circumstances and sentiments of every school community. The constitution of the state neither requires nor forbids the reading of the Bible, or prayer, or any other form of religious or devotional exercise in schools, and the school laws are entirely silent on the subject. The spirit of the constitution in this regard is permissive, not mandatory, and the same spirit should actuate and control the conduct of teachers and school authorities. While the largest freedom is granted to both, they are yet both amenable in their action to the paramount rule "that no human authority can, in any case whatever, control or interfere with the rights of conscience." Not even the legislature could require of teachers, directors or parents, anything in conflict with that declaration, or, if such a law were enacted, it would certainly be declared void by the supreme court. Much less can a board of directors require of a teacher, either by prohibition or command, anything that he can not conscientiously do; and a like restriction rests upon the teacher in his dealings with his pupils and their parents—other requirements may be enforced, but into the domain of conscience, none may enter.

Being a matter over which the directors have no authoritative control, they may signify their wishes to the teacher, but nothing more; should they go further, he may refuse to obey a command which they have no legal or moral right to enforce. And if, on the other hand, a teacher feels it to be his duty to read from the Bible, or offer prayer, at the opening of school, it is his privilege to do so, even if contrary to the wishes of the directors, and for so doing he can not be discharged or molested—it is a sacred personal right of which he cannot be deprived. And all of the scholars who choose, or whose parents approve, may be present and participate in the reading and worship. In

the case, however, of such a conflict between the opinions and wishes of the teacher and directors, the latter might, it is held, require that the moments of devotion be not taken from the regular school hours, but that the exercise be attended to either before school or after its close. The powers conferred upon directors, would seem to warrant their interference to the above extent, if they saw fit, but no further. It would remain for the teacher to judge in such a case, whether the interests of the school would best be subserved by insisting upon, or waiving his rights in the premises.

The same principles apply to pupils, and to their parents or guardians; their rights of conscience must be equally respected. No scholar can be required to read the Bible in school, *as a religious exercise*, or to attend prayer, or participate in any other form of worship or devotion, contrary to the expressed wishes of his parent or guardian. If objection is made on the ground of "conscience," it is a right with which "no human authority can, in any case whatever, interfere." For the same reason, the children of Protestants can not be compelled to read from the Douay, or Catholic, version of the Bible, if their parents or guardians object; nor can the children of Catholics be forced to read from the common Protestant version, against the wishes of their parents or guardians. It follows, of course, that no pupil of any common or public school in this state, can be expelled, suspended, or otherwise punished, for declining to read the Bible, or any particular version thereof, as a religious exercise; or for declining to engage or participate in, or be present at, any formal act or service of religious worship or devotion, if in so declining he acts in accordance with the intelligent convictions of his own conscience, or in compliance with the expressed desire of his parent or guardian.

The same rule applies also to the character of the instructions given by teachers, and to the text-books, etc., used in the schools. The spirit of the constitution, and the nature and objects of the public school, alike require that these should be free from whatever might justly be deemed offensive to the particular denominational or sectarian

tenets of any portion of the community. That which can not be done directly should not be done indirectly. Neither directors nor teachers can obtrude or force their private doctrinal opinions upon the pupils.

McCormick v. *Burt*, 95 Ill., 263, is sometimes quoted as authorizing a school board to compel pupils to pay attention to religious exercises at the beginning of school. But the supreme court in that case has not passed upon the rule under which the boy McCormick was suspended. The decision was simply that the school officers sued were not liable in damages, since the party complaining can have no action when such officers act in good faith and in the line of what they think is honestly their duty.

9. *Enforcement of Rules.* The law says that the board may enforce its rules, but is silent as to the means by which they may be enforced, except in providing for suspension and expulsion in certain cases named [**147,** *note c*], and no case relating to any other form of punishment in public schools has ever been carried to an appellate court or the supreme court in this state. But it is absolutely necessary that good order be maintained in the school and that the pupils obey promptly all rules and commands. Hence arises the right to coerce obedience by the use of reasonable means. The right to make rules, as we have seen, rests primarily, under the law, with the school board; so, too, in the school board is vested the power to enforce its rules. But the teacher represents the school board in the school room, and upon him necessarily falls the duty of governing the school and executing the orders of the board; such power naturally belongs to his position.

10. *Corporal Punishment—Some Decisions of the Courts.* The following summary of cases will give an idea of what has been held with reference to corporal punishment in schools by courts of last resort in other states.

"The right of the parent to keep the child in order and obedience is secured by the common law. He may lawfully correct his child, being under age, in a reasonable manner, for this is for the benefit of his education. He may delegate, also, a part of his parental authority, during his life, to the tutor or schoolmaster of his child, who is then *in loco parentis*, and has such portion of the power

of the parent committed to his charge—viz: that of restraint and correction—as may be necessary to answer the purpose for which he is employed. [1 *Black. Com.*, 453, 454; 1 *Hale's P. C.*, 473, 474.] 'The rights of parents [over their children] result from their duties. As they are bound to maintain and educate their children, the law has given them the right to such authority; and, in support of that authority, a right to the exercise of such discipline as may be requisite for the discharge of their sacred trust.' 'The power allowed by law to the parent over the person of the child may be delegated to a tutor or instructor, the the better to accomplish the purposes of education.' [2 *Kent's Com.*, 169, 170.] Although the town school is instituted by the authority of the statute, the children are to be considered as put in charge of the instructor for the same purpose, and he clothed with the same power as when he is directly employed by the parents. The power of the parent to restrain and coerce obedience in children can not be doubted, and it has seldom or never been denied. The power delegated to the master by the parent must be accompanied for the time being with the same right, as incidental, or the object sought must fail of accomplishment.

"The practice, which has generally prevailed in our town schools since the settlement of the country, has been in accordance with the law thus expressed, and resort has been had to personal chastisement when milder means of restraint have been unavailing." [*Stevens* v. *Fassett*, 27 Me., 266.]

"The law having elevated the teacher to the place of the parent, if he is still to sustain that sacred relation, it becomes him to be careful in the exercise of his authority, and not make his power a pretext for cruelty and oppression. [14 *Johns R.* 119.] Whenever he undertakes to exercise it, the cause must be sufficient, the instrument suitable to the purpose; the manner and extent of the correction, the part of the person to which it is applied, the temper in which it is inflicted, all should be distinguished with the kindness, prudence and propriety which become the station." [*Cooper* v. *McJunkin*, 4 Ind., 291.]

"The law, as we deem it to exist, is this: A schoolmaster has the right to inflict reasonable corporal punishment. He must exercise reasonable judgment and discretion in determining when to punish, and to what extent. In determining upon what is a reasonable punishment various considerations must be regarded—the nature of the offence, the apparent motive and disposition of the offender, the influence of his example and conduct upon others, and the sex, age, size, and strength of the pupil to be punished.

Among reasonable persons much difference prevails as to the circumstances which will justify the infliction of punishment, and the extent to which it may properly be administered. On account of this difference of opinion, and the difficulty which exists in determining what is a reasonable punishment, and the advantage which the master has by being on the spot to know all the circumstances—the manner, looks, tone, gestures, and language of the offender (which are not always easily described)—and thus to form a correct opinion as to the necessity and extent of the punisment, considerable allowance should be made to the teacher by way of protecting him in the exercise of his discretion. Especially should he have this indulgence when he appears to have acted from good motives and not from anger or malice. Hence the teacher is not to be held liable on the ground of excess of punishment unless the punishment is *clearly* excessive, and would be so held in the general judgment of reasonable men. If the punishment be thus *clearly* excessive, then the master should be held liable for such excess, though he acted from good motives in inflicting the punishment, and in his own judgment considered it necessary and not excessive. But if there is any reasonable doubt whether the punishment was excessive, the master should have the benefit of the doubt." [*Lander* v. *Seaver*, 32 Vt., 114; *Patterson* v. *Nutter*, 78 Me., 509; *Heritage* v. *Dodge*, 64 N. H., 297.]

In *State* v. *Mizner*, 50 Ia., 145, the supreme court approved the following instructions:

"In the absence of all proof, the law presumes that a father or school teacher punishes a child of the father or the pupil of the teacher for a reasonable cause and in a moderate and reasonable manner. But this presumption, like all other legal presumptions, may be rebutted by the proof."

"The legal objects and purposes of punishment in schools are like the objects and purposes of the state in punishing the citizen. They are threefold: First, the reformation and the highest good of the pupil; second, the enforcement and maintenance of correct discipline in school; and third, as an example to like evil-doers. And in no case can the punishment be justifiable unless it is inflicted for some definite offence or offences which the pupil has committed, and the pupil is given to understand what he or she is being punished for. And if you find from the evidence that the punishment in this case was inflicted upon the prosecutrix without her knowing what she was being punished for, then the punishment was wrongful on the part of the defendant.

Punishment inflicted when the reason of it is unknown to the punished, is subversive and not promotive of the true objects of punishment, and cannot be justified."

It was also held that any punishment with a rod which left marks or welts on the person of the pupil for two months afterward, or much less time, was immoderate and excessive, and that the court would have been justified in so instructing the jury. In this case the pupil was punished by the teacher because, acting under the direction of her father, she did not study algebra or attend school at the hours fixed. The court held that such a violation of rules should be punished by suspension or expulsion and not by whipping.

"We hold, therefore, that it may be laid down as a general rule, that teachers exceed the limits of their authority when they cause lasting mischief; but act within the limits of it when they inflict temporary pain.

"Within the sphere of this authority the master is the judge when correction is required, and of the degree of correction necessary; and, like all others intrusted with a discretion, he can not be made personally responsible for error of judgment, but only for wickedness of purpose.

"But the master may be punishable when he does not transcend the powers granted, if he grossly abuse them. If he use his authority as a cover for malice, and, under pretence of administering correction, gratify his own bad passions; the mask of the judge shall be taken off, and he will stand amendable to justice as an individual not invested with judicial power." [*State* v. *Pendergrass*, 2 Dev. & Bat., 365.]

If, in inflicting punishment upon his pupil, he went beyond the limit of moderate castigation, and, either in the mode or degree of correction, was guilty of any unreasonable and disproportionate violence or force, he was clearly liable for such excess in a criminal prosecution. [1 *Hawk. c.* 60, § 23; *Russell on Crimes*, (7th Amer. Ed.), 755; *Bac. Ab. Assault and Battery C.*] It is undoubtedly true that, in order to support an indictment for an assault and battery, it is necessary to show that it was committed *ex intentione*, and that if the criminal intent is wanting the offense is not made out. But this intent is always inferred from the unlawful act. The unreasonable and excessive use of force on the person of another being proved, the wrongful intent is a necessary and legitimate conclusion in all cases where the act was designedly committed. It then becomes an assault and, because purposely inflicted, without

justification or excuse. Whether, under all the facts, the punishment of the pupil is excessive, must be left to the jury." [*Commonwealth* v. *Randall*, 4 Gray, 36.]

"In inflicting such punishment the teacher must exercise sound discretion and judgment, and must adapt it not only to the offense but to the offender. Horace Mann, a high authority in the matter of schools, says of corporal punishment: 'It should be reserved for baser faults. It is a coarse remedy, and should be employed upon the coarse sins of our animal nature, and, when employed at all, should be administered in strong doses.' Of course the teacher, in inflicting such punishment, must not exceed the bounds of moderation. No precise rule can be laid down as to what shall be considered excessive or unreasonable punishment [*Reeve's Dom. Rel.*, 288.] Each case must depend upon its own circumstances. And we think it equally clear that he should also take into consideration the mental and moral qualities of the pupil, and, as indicative of these, his general behavior in school and his attitude towards his teacher become proper subjects of consideration.

"We think, therefore, that the court acted properly in admitting evidence of the prior and habitual misconduct of the plaintiff, and that it was perfectly proper for the defendant, in chastising him, to consider not merely the immediate offense which had called for the punishment, but the past offenses that aggravated the present one, and showed the plaintiff to have been habitually refractory and disobedient. Nor was it necessary that the teacher should, at the time of inflicting the punishment, remind the pupil of his past and accumulating offenses. The pupil knew them well enough, without having them freshly brought to his notice" [*Sheehan* v. *Sturges*, 53 Conn., 481.]

If a pupil who is of age attends school, she submits herself to all the rules of the school and to like discipline with those pupils who are under age. [*State* v. *Mizner*, 45 Ia., 248.] The same rule holds if the pupil is over twenty-one years of age and attends the school by consent of the directors. [*Stevens* v. *Fassett*, 27 Me., 266.]

In *Peck* v. *Smith*, 41 Conn., 442, the judge held that a member of a school board may eject a pupil from the school house for insulting conduct towards him:

"The defendant, being at the school house performing certain duties connected with the school, called the attention of the plaintiff to certain acts, not especially culpable in character, which he acknowledged he had committed. His bearing and manner were insolent and offensive, and

the language in which he indulged was grossly profane. Such language, reprehensible at all times, should not have been allowed to pass with impunity from a school boy of the older class, within the walls of a school house, in the presence and hearing of younger pupils. After being told to leave, he so conducted that it was proper to remove him, no unnecessary force being used to attain that object." [*See, also, Vanvactor* v. *State*, 113 Ind., 276.]

"It may be proper to observer however, that public sentiment does not now tolerate such corporal punishment of pupils as was formerly thought permissible and even necessary." [1 *Cooley's Blackstone*, 453.]

11. *Rule which should control the Teacher in inflicting Punishment.* The opinions of the highest judicial tribunals and eminent jurists concur in respect to the propriety and necessity of granting school teachers authority to inflict corporal punishment in certain cases, and of protecting them in the prudent and reasonable exercise of such authority either to promote the welfare of the child or the welfare of the whole school. Teachers are, however, held to a just accountability for the abuse of the power conferred. The decisions cited relate to punishments with the rod, ferule, etc., but the rule of discretion and accountability is the same for all other forms of punishment. Without doubt the best teachers do, as a general rule, use the rod the least, because they have a more perfect personal discipline, and command a wider range of mental and moral resource from which to draw in dealing with the wayward and erring; and because they have, by nature, the faculty of dealing easily and successfully with youth. It may be that if we all were wise enough, some other remedy might be found in every case, I can not say. But it is quite certain that, so far as we can judge of cause and effect, cases arise at one time or another in the experience of most teachers, when the timely and judicious infliction of corporal punishment seems both at the time and afterwards, the wisest and best thing that could be done. Certain it is, also, that castigation with the rod is often less cruel than sharp words, tones of irony, sarcasm or invective, and less humilating and harmful than some of the substitutes therefor.

12. *Liability of Directors and Teachers in Making and Enforcing Rules.* "In the performance of the duties imposed by law upon school directors they must exercise judgment and discretion. What rules and regulations will best promote the interests of the school under their immediate control, and what branches shall be taught and what text-books shall be used, are matters left to the determination of the directors and must be settled by them from the best lights they can obtain from any source, keeping always in view the highest good of the whole school. Good order can only be maintained by enforcing discipline, and that power is largely committed to the directors.

"In such cases the law seems to be well settled that there can be no action maintained against school officers when they act without malice.

"The rule is certainly a reasonable one. A mere mistake in judgment, either as to their duties under the law or as to facts submitted to them, ought not to subject such officers to an action. They may judge wrongly, and so may a court or other tribunal, but the party complaining can have no action when such officers act in good faith and in the line of what they think is honestly their duty. Any other rule might work great hardship to honest men who, with the best of motives, have faithfully endeavored to perform the duties of these inferior offices. Although of the utmost importance to the public, no considerable emoluments are attached to these minor offices, and the duties are usually performed by persons sincerely desiring to do good for their neighbors, without any expectation of personal gains, and it would be a very harsh rule that would subject such officers to an action for damages for every mistake they may make in the honest and faithful discharge of their official duties as they understand them. It is not enough to aver the action of such officers was erroneous, but it must be averred and proved that such action was taken in bad faith, either wantonly or maliciously. If, in the discharge of their official duties, such officers simply err, it is what other tribunals invested with discretionary powers are liable to do. [*McCormick* v. *Burt*, 95 Ill., 263; *Churchill* v. *Fewkes*, 13 Ill. App. (13 Brad.), 520; *Fertach* v. *Michner*, 111 Ind., 223.]

But when directors and the teacher do not act within the scope of their authority, or are guilty of arbitrary, wanton, or oppressive conduct, they render themselves liable personally. [*Rulison* v. *Post*, 79 Ill., 567; *McCutchen* v. *Windsor*, 55 Mo., 149.]

13. *Tuition-paying Pupils.* Tuition-paying pupils are amenable to all the rules of the school, the same as are the other pupils, and are subject to the same control. [*State* v. *Mizner*, 45 Ia., 248.]

14. *Teacher without certificate may govern School.* A teacher without a certificate has authority to govern the school. Though not a teacher for all purposes, in the eye of the law, he does sustain that relation to parents and pupils and, hence, may control the school as a teacher.

(*d*) *Visitation of Schools by Directors.* As to directors' powers in respect to visitation:

"Should any scholar misbehave himself, or prove refractory or contumacious to the committee, while they are engaged in examining the school, it is presumed they have authority to suspend, expel, or to punish on the spot, in the same way that the teacher may do in the case of like misconduct committed against himself." [*Horace Mann, Sec. Mass. Board of Education*, 10th Rep., 183; *State* v. *Williams*, 27 Vt., 755; *Peck* v. *Smith*, 41 Conn., 442.]

(*e*) 1. *A Teacher must be employed by the School Board.* The board of directors as a corporate body must act in the employment of a teacher. [*Directors* v. *Jennings*, 10 Ill. App. (10 Brad.), 643.]

2. *The Teacher must have a Certificate for the whole Term of the Contract.* The employment will not be valid unless the the teacher holds at the time of making a contract such a certificate of qualifications as the law requires, good for the term of the contract. Getting a certificate subsequently will not make the contract valid. [*Stevenson* v. *Directors*, 87 Ill., 255; *Davis* v. *Directors*, 92 Ill., 293; *Butler* v. *Haines*, 79 Ind., 575.]

Formerly it was essential to the validity of a contract that the teacher should actually exhibit his certificate to the directors at the time of making the contract. Now it is essential that he have a certificate, as above; but a failure to exhibit it to the directors does not invalidate the contract.

3. *The Provisions of the Law and Rules of the Board a Part of the Contract.* Both the school board and the teacher are bound by the provisions of the law as to their respective duties, and the rules of the board may be made

a part of the contract. For instance the law requires the teacher to keep a register; it makes it the duty of the board to pay the teacher each month. A rule of the board may give it the power to assign the teacher to any school. [*Jacksonville* v. *Akers*, 11 Ill. App. (11 Brad.), 394; *Roberson* v. *Troutt*, 17 Ill. App. (17 Brad.), 386; *Everett* v. *District*, 30 Mich., 249.]

4. *When is a Contract Complete?* A contract is not complete without the consent of both parties. A vote by a school board to employ a person to teach does not bind the board until it has been communicated to, and accepted by him. Up to the time of acceptance the board may reconsider its vote. In the same way a person offering to teach is not bound until the school board has accepted his offer. A contract may be completed by mailing a letter or sending a telegram of acceptance. [*Haas* v. *Myers*, 111 Ill., 421; *Kal. Nov. Mfg. Co.* v. *Macalister*, 40 Mich., 84; *Pollock on Contracts*, p. 8.]

5. *Personal Services Contracted for—Assistant—Substitute.* The contract with a teacher is for his own services. The school board must itself employ all teachers, and may not contract with a teacher whom it has employed to supply his own assistant or substitute. [*Directors* v. *Hudson*, 88 Ill., 563; *State* v. *Williams*, 29 Ohio, S., 161.]

"A teacher doubtless, like a lawyer, surgeon, or physician, when he undertakes an employment, impliedly agrees that he will bestow upon the service a reasonable degree of learning, skill and care. When he accepts an employment as teacher in any given school, he agrees by implication that he has the learning necessary to enable him to teach the branches that are to be taught therein, as well as that he has the capacity in a reasonable degree of imparting that learning to others. He agrees, also, that he will exercise a reasonable degree of care and diligence in the advancement of his pupils in their studies, in preserving harmony, order, and discipline in the school, and that he will himself conform as near as may be to such reasonable rules and regulations as may be established by competent authority for the government of the school. He also agrees, as we think, by a necessary implication, that while he continues in such employment his moral conduct shall be in all respects exemplary and beyond just reproach." [*Crawfordsville* v. *Hays*, 42 Ind., 200.]

6. *Contract with a Minor.* A person who is a minor may contract to teach a school with the consent of his parent or guardian. [*Monaghan* v. *District*, 38 Wis., 100.] If a minor contracts for himself with the consent of his parent, or when he has been "given his time" or left to "do for himself," his wages may be paid to him.

A teacher who is a minor may abandon his contract and recover for the time he has taught. [*Schouler on Domestic Relations*, § 561.]

7. *Abandoning a Contract—Resignation.* But a teacher who is of age, having acreed to teach for a definite term, cannot recover for services rendered if he quits before the close of the term. [*Clark* v. *District*, 29 Vt., 217.]

The same rule applies to resignations; the teacher cannot resign at will. Parties to a contract are bound by its terms.

8. *School closed by Directors.* On the other hand, if the board of directors fails to do, or does anything which results in closing the school for any length of time during a school term, the teacher's pay goes on the same as if he had taught, provided he holds himself ready to comply with his contract and subject to the order of the board. This rule applies in cases where the board fails to have repairs made upon the school house by the time the term was to begin, according to the contract; where the directors fail to furnish fuel in the winter season, etc. The most common case is the closing the school by the directors on account of the presence of some epidemic or contagious disease in the vicinity. [*Dewey* v. *District*, 43 Mich., 480.]

9. *Employment of Teacher for current Year—Not for the Next Year.* Contracts with teachers for terms of school to begin after the annual school election, should be made by the board prior to that election. But contracts may be made for terms beginning before, and continuing for a reasonable time after the election. For example, a contract made in March for a term to begin the first of May or the first of September, is not lawful; but a contract made in June for a term of nine or ten months, beginning September first, is lawful; so, too, when it is desired to have a summer term of two or three months begin April first,

such a contract will be valid. [*Stevenson* v. *Directors*, 87 Ill., 255; *Davis* v. *Directors*, 92 Ill., 293.]

But not when the teacher is employed for a three months' term only five days before the election. [*Cross* v. *Directors*, 24 Ill. App. (Smith), 191.]

10. *No Contract between Teacher and Pupil.* There is no contract between a teacher and his pupil such as to give the pupil a right of action against the teacher for not hearing his lessons. The teacher contracts with the school board alone. [*Stuckey* v. *Churchman*, 2 Ill. App. (2 Brad.), 584; *Spear* v. *Cummings*, 23 Pick., 224.]

11. *Teachers Amenable to Directors only.* Teachers are answerable to the *directors only*, for their conduct while in the employ of the board. They must faithfully carry out the wishes and instructions of the directors in all matters pertaining to the management and discipline of the school, text-books used, branches taught, and whatever relates to the general policy of the school; and for so doing they cannot be called to an account by the inhabitants of the district, but are amenable only to the board.

12. *Teachers not required to make Fires, Sweep, etc.* The teacher may not be required to do janitor work unless he has agreed so to do in making his contract with the board of directors. Such services do not form a part of his duty as a teacher. [*See, also,* **60**, *notes* 16 and 17.] But he may properly be required to exercise a due care and supervision over the school premises, furniture, apparatus and library; for this is clearly stated in **196**, and in the directors' certificate attached to the schedule in **199**.

13. *Written Contracts.* School boards and teachers should make written contracts. All of the points about which differences would be likely to arise, such as the amount of salary, length of time, etc., should be plainly set forth in such agreements. The language of the contract must express the exact intention of the parties; for while the rule of the law is to give effect to the intention, yet if the language is unequivocal it will govern, although it fail to express the real intention of the parties. [*Benjamin* v. *McConnell*, 4 Ill. (Gilman), 536.]

14. *Effect of Revocation of Certificate.* If a teacher's certificate is revoked while he is under contract to teach, the contract is made void by the revocation from the date thereof.

15. *Directors Responsible, not the People.* Directors are clothed with authority to appoint teachers, and regulate the internal affairs of the school in accordance with their own best judgment. It is presumed, of course, that in the exercise of this authority, they will act with due regard to the opinions and wishes of the people of the district, whose agents they are. But the directors, not the citizens at large, are legally accountable for the control and management of the school. Whenever, therefore, a difference of opinion arises between the directors and citizens, in respect to the choice of a teacher, or any other question of school policy, the directors have full power to decide the points in controversy, and it is their duty to do so according to their own best judgment and discretion, amenable only to the provisions of the school law of the state, from which all their official powers are derived.

(*f*) 1. *Branches of Study.* In **190** it is said: "Every school established under the provisions of this act shall be for the instruction in the branches of education prescribed in the qualifications for teachers, and in such other branches including vocal music and drawing, as the directors or the voters of the district, at the annual election of directors, may prescribe." This and the clause of **146**, "the directors shall direct what branches of study shall be taught" must be construed together. The purpose of the law is that in every school district every school child, as he becomes fitted therefor, shall have the privilege of receiving instruction in the several branches named in **187**, in the qualifications for a teacher's certificate of the first grade. This alone will satisfy the law; neither the directors, the teacher nor the people can exclude any branches specified in the act.

2. *School Board to make a Course of Study—To classify Pupils.* The power of the school board in the premises is, then, to determine the order in which the studies required to be taught shall be taken up, what time shall be given to each, and, if it be impracticable or undesirable to have

all the branches taught in one term, as it may well be in a country school, to determine also what branches shall not be taught for the term. In a word, the school board of each school should arrange a course of study so that each branch may come in its natural order, and so that every pupil may have the opportunity afforded to pursue them all during his school years. If other higher branches are added to the course, each must be given its appropriate place and time.

The board may classify the pupils with regard to the branches of study they are respectively pursuing, and with regard to proficiency or degree of advancement in the same branches.

3. *Choice of Studies by Pupils.* The rights of pupils in regard to selecting studies, as determined in this state, may be presented thus:

(1) Pupils can study no branch which is not in the course prescribed by the directors.

(2) Pupils can study no branch of such prescribed course for which they are not prepared; of which preparation the teachers and directors shall judge.

(3) Pupils shall study the particular branches of the prescribed course which the teachers, with consent of the directors, shall direct, unless honest objection is made by the parents.

(4) If objection is made in good faith, parents shall be allowed to select from the particular branches of the prescribed course for which their children are fitted, those which they wish them to study; and for the exercise of such right of choice the children shall not be liable to suspension or expulsion.

If a pupil desiring admission to the high school is qualified to pursue every branch of study which he wishes to pursue, he may not be refused admission, because he cannot pass the required entrance examination in some branch in no manner connected with those he wishes to study. [*State Superintendent Bateman's Report*, 1873-4, 33; *Rulison* v. *Post*, 79 Ill., 567; *Trustees* v. *People*, 87 Ill., 303; *Morrow* v. *Wood*, 35 Wis., 59.]

4. *Effect of "Compulsory" Law.* The foregoing decisions were rendered before the passage of our "compulsory education" law, [302]; and they must, doubtless, be modified so as not, in any particular case, to defeat that law.

5. *Declamation and Composition.* In addition to the regular course of study which it is the duty of every board of directors to prescribe, there are certain general exercises in which it is customary to require the more advanced pupils in public schools to participate. Among such general school exercises may be mentioned the writing of "compositions," the recitation or declamation of short pieces of prose or poetry. That boards of directors, acting as they believe for the best interests of the schools, may, in their discretion, require pupils to engage and take part in such exercises, can hardly admit of a doubt. And if this is so, if the right is conceded, the authority to enforce obedience, by all lawful means, must also be conceded. It is therefore held that when such general exercises as composition-writing, declamation, etc., are enjoined, all the pupils included in the requirement must comply with the regulations made and established in respect thereto, unless duly excused therefrom.

It is further held that pupils cannot be excused from such exercises, whether at their own request or that of their parents or guardians, without the consent of the board. The case in hand does not fall within the scope of the principles laid down above, nor can the qualified right of choice in studies there granted, be plead in justification of refusal to comply with the regulations of the board in regard to declamation and composition-writing. Nor is this a distinction without a difference, as might at first view appear; because a regular daily study, and a brief general exercise, occurring only at intervals of from one to four weeks, are very different things—so different that the considerations applicable to the one do not apply to the other at all.

6. *Uniformity of Text-Books.* By "uniformity of text-books" is meant that the pupils of the same grade or class who are pursuing the same study must all have for that study books which are alike. That is, pupils in the first-reader class must have the same First Reader; and

pupils in the fifth-reader class must have the same Fifth Reader. But it is not required that the First Reader and the Fifth Reader used shall belong to the same series. One may be from one publishing house, and the other from another. And the law must be understood in the same way in regard to each of the other branches.

7. *Changes of Text-Books—Penalty.* Directors who, in violation of the law, do permit text-books to be changed oftener than once in four years are liable, for their failure to perform their duty, under the law, to the penalty of twenty-five dollars named for such failure in **284**.

(*g*) *Purchasing Text-Books.* Directors are not given the power to purchase with school funds the regularly adopted text-books for the use of all the children of the district; and books for such use may not be purchased under the pretence of a purchase of books for the school library. The only power the directors have in this regard is to purchase books for children whose parents are not able to buy books for them.

(*h*) *Directors Liable.* The schedules filed from each district of the township with the township treasurer serve as evidence for the trustees that the district has had a legal school for the year. If, through failure to file the schedules, such evidence is not presented to them, the trustees must pass the district in distributing funds, and any loss thus sustained through the neglect of the directors falls upon them personally. [**55**, *note* (*c*), 1 *and* 2.]

(*i*) *Report to Voters.* This financial report of the directors is made to the voters to show them how their money has been spent, and should be presented at such time during the progress of the election as will give it the greatest publicity. Posting the semi-annual statements of the treasurer upon the door of the building where the election is held is required for the same purpose. [**114**, *note* 1.]

147. Official powers. § 27. The board of school directors shall be clothed with the following additional powers:

First—To use any funds belonging to their district, and not otherwise appropriated, for the purchase of a suitable book for their records. And the said records shall be kept in a punctual, orderly and reliable manner.

Second—Said directors may, where they deem the amount of labor done sufficient to justify it, allow the clerk of such board of directors, out of any funds not otherwise appropriated, compensation for duties actually performed.

Third—They shall have power to dismiss a teacher for incompetency, cruelty, negligence, immorality or other sufficient cause. (*a*)

Fourth—They shall have power to assign pupils to the several schools in the district; to admit non-residents when it can be done without prejudice to the rights of resident pupils; to fix rates of tuition; collect and pay the same to the township treasurer for the use of said district. (*b*)

Fifth—They may suspend or expel pupils who may be guilty of gross disobedience or misconduct, and no action shall lie against them for such expulsion or suspension. (*c*)

Sixth—They may provide that children under twelve (12) years of age shall not be confined in school more than four hours daily. (*d*)

Seventh—They may appropriate, for the purchase of libraries and apparatus, any school funds remaining after all necessary school expenses are paid. (*e*)

Eighth—When any school district owns any personal property not needed for school purposes, the directors of such district may sell such property at public or private sale, as in their judgment will be for the best interest of the district, and the proceeds of such sale shall be paid over to the treasurer of such district, for the benefit of said school district.

Ninth—They may grant special holidays whenever in their judgment such action is advisable; *Provided*, no teacher shall be required to make up the time lost by the granting of such holidays.

Tenth—They shall have the control and supervision of all school houses in their district, and may grant the temporary use of school houses when not occupied by schools, for religious meetings and Sunday schools, for evening schools and literary societies, and for such other meetings as the directors may deem proper. (*f*)

Eleventh—They shall have power to decide when the school house site, or the school buildings have become unnecessary, or unsuitable, or inconvenient for a school. (*g*)

Twelfth—They may borrow money and issue bonds therefor for building school houses, purchasing sites, repairing and improving school houses, in the way and manner provided for by article 9 of this act.

(*a*) 1. *Dismissal of Teacher—Illinois Cases.* The few cases in relation to the dismissal of teachers by school

which have been before our supreme and appellate courts, have established these points: When a board of directors dismisses a teacher, it must be careful to see that every essential reason therefor is spread upon the record; for while failure to specify, in the record, any reasons for the order of dismissal is not conclusive upon the teacher, leaving the directors to prove the facts they allege in the order, precisely as if it had not been made, it is, nevertheless, binding upon the directors, and estops them from showing any other or different causes. [*Neville* v. *Directors*, 36 Ill., 71.]

The possession by a teacher of a proper certificate of qualification is *prima facie* evidence of competency, and directors in dismissing such a teacher for incompetency assume the burden of proving their charge. [*Ibid.*]

In considering the grounds upon which a teacher may be discharged for incompetency or neglect of duty, it is held that the law does not require the highest possible qualifications, or the possession of professional talents equal to the most eminent and successful teachers, but only fair attainments and ability, and the usual diligence and application to the discharge of his duties, to fulfill his contract. [*Ibid.*]

An illegal discharge entitles the teacher to recover damages. [*Ibid.*]

Or the teacher may apply for a *mandamus* to be permitted to discharge his duty. [*People* v. *Siclen*, 43 Hun, 537.]

A discharge makes it impossible for a teacher to keep a schedule subsequent thereto; hence in suing for wages for the time he was engaged to teach, but from which he was barred by a discharge without cause, he need not aver that he kept a schedule in accordance with the provisions of the statute. [*Directors* v. *Reddick*, 77 Ill., 628.]

If a teacher, without the consent and against the order of the board, leave his school to a substitute, he may be dismissed even though it be shown that the substitute was competent. [*Directors* v. *Hudson*, 88 Ill., 563.]

Failure to comply with and enforce reasonable rules is a sufficient ground for the dismissal of a teacher, whether

the failure result from negligence or from positive refusal. [*Roberson* v. *Troutt*, 17 Ill. App. (17 Brad.), 386.]

In a case in which the directors are sustained in annulling a contract with a teacher, before he began teaching, on a charge of immorality, the court says:

"Ability to teach the branches prescribed does not alone qualify a person to teach our youth. In addition thereto, they should be persons who, for their known virtue and morality, are fitted to be trusted with the dearest treasures of the father and mother—the person and mind of their child. They should be entitled to and receive the entire confidence of the patron and pupil. If suspicion of vice or immorality be once entertained against a teacher, his influence for good is gone. The parents become distrustful, the pupils contemptuous, and the school discipline essential to success is at an end." [*Tingley* v. *Vaughn*, 17 Ill. App. (17 Brad.), 347.)

2. *Mode of Dismissal.* The board does not sit as a court when it is considering the question of discharging a teacher; and so, while it is bound to treat the teacher fairly, there need be no formal summons, and no particular order of hearing the case as in a court. [*People* v. *Mays*, 117 Ill., 257; *District* v. *McCoy*, 30 Kas., 268.]

(*b*) *Assignments of Pupils to Schools.* In districts where there are two or more school houses, the directors have full power to prescribe and determine to which house each pupil of the district shall be permitted to go. It is a matter clearly within the official jurisdiction and control of the directors, and for their action in the premises they can not be called to account, except for wanton abuse of the powers conferred upon them by law. But see **146**, *note* (*b*), 5.

(*c*) 1. *Suspension and Expulsion—Illinois Cases.* Upon the power given school boards to suspend or expel pupils, we have some instructive decisions by the courts. A pupil having declined to study book-keeping because her parents objected, was expelled, and somewhat forcibly removed from the building by the teacher, acting in accordance with the order of the directors. She instituted an action of tresspass against the directors and the teacher, and was awarded $130 damages in the circuit court. The supreme court affirmed the judgment, holding as follows:

"The law having conferred upon each child of proper age the right to be taught the enumerated branches, any rule or regulation which, by its enforcement, would tend to hinder or deprive the child of this right can not be sustained. All rules must be adapted to the promotion and accomplishment of this great and paramount purpose of the law.

"The law, for the purpose of preserving the school and promoting its usefulness, has empowered the directors to suspend or expel scholars, but only for disobedient, refractory, or incorrigibly bad conduct. It is by the commission of one of these acts, alone, that the pupil can forfeit his right to the privileges of the school; and this forfeiture can only be enforced, and the right lost, after all other reasonable means have failed. Nor is the suspension or expulsion designed merely as a punishment of the child, but principally as a means of preserving order and the proper government of the school. * * * * * The directors had no power to expel appellee from the school and its privileges and benefits, because she, under the direction of her parents refused to study book-keeping, as it is not one of the branches enumerated in the statute, and is one her parents had the option to have taught her as the directors had provided that it should be taught in the school; and the directors having no such power, they could not lawfully expel appellee from the benefits and privileges of the school, for a refusal to comply with this requirement, and when they did so with force, it constituted a trespass. What they did by the teacher, they did by themselves, according to a familiar maxim of the law. Nor could the teacher justify under the authority of the directors, as they could not, under the law, authorize him to perform an illegal act, as this was, and having committed the trespass, they are liable to respond in damages." [*Rulison* v. *Post*, 79 Ill., 567.]

A pupil having refused, under the direction of her father, to bring a written statement explaining her tardiness, was suspended and removed from the room without unnecessary force. The rule requiring such statement was as follows;

"Any pupil who shall be a bsentor tardy shall be required (the next time he or she comes to school from home after such absence or tardiness) to present to the teacher a written excuse or statement from his or her parent or guardian, showing to the satisfaction of the teacher that such absence or tardiness was caused or occurred with the knowledge or consent of the parent or guardian, and also showing the

length of time such pupil was so detained, or permitted to be absent by the parent or guardian."

The pupil instituted a suit in trespass against the school board and the superinteudent. Hon. James Steele, sitting as circuit judge at Charleston, gave the jury the following among other instructions:

(1) "The directors of a school district are authorized by law to adopt and enforce all necessary rules and regulations for the management and government of the school or schools within their district, and to suspend or expel pupils from such schools for disobedient conduct; and, while it is true that the law secures to every child, of proper age, the right to attend and receive instruction at our public schools, yet that right must be so exercised, by each particular child, as not to interfere with the full enjoyment of the same right by every other child. No child can be said to have an exclusive right to attend our public schools, but all children, of proper age, have a common right to attend them, subject, however, to such necessary rules and regulations as the directors of such school may see fit to make; and if the parents of any particular child see fit to make rules and regulations for such child which shall conflict with the necessary rules and regulations made by the directors for the government of the school where such child has a right to attend, then the necessary rules and regulations, so made by the directors, must govern; and if such child, while in attendance upon school, persists in obeying the conflicting rules so made by the parents, and thereby disobeying the rules so made by the directors, the latter have the right either to suspend or expel such child from the school.

(2) "It is true that parents have a paramount right to control their children, and to make such rules for their government as they may deem necessary; but if parents desire their children to enjoy the benefits of our public schools, the should not make such rules for the government of their children as will compel the children to disobey the necessary rules and regulations made by the directors of the school where such children have the right to attend.

(3) "If a rule made by a board of directors is a reasonable one, and is calculated to improve the schools, and secure punctuality and promptness in the attendance of the pupils, then the directors are exercising their lawful powers in making such a rule, and they have the right to compel obedience to such rule, by all pupils attending the schools attending the schools in their district, and to sus-

pend or expel any pupil who may refuse to obey such rules, provided such suspension may, in their judgment, be necessary for the welfare of the schools under their control.

(4) "If a board of directors, in the lawful exercise of powers conferred by law, expel a pupil from their school, and the scholar so expelled refuses to leave the school room, and persists in defying and disregarding the just and legal authority of the board, such pupil may be ejected by force from the school, and it makes no difference whether this defiance and disregard of the authority of the board arises from the pupil's own willfulness and stubbornness, or from orders or commands given to such pupil by his or her parents.

(6) "Before the jury can find for the plaintiff, they must find, by a preponderance of evidence, that either the said plaintiff was not tardy in her attendance upon school, or that the said rule concerning tardiness was unnecessary; * * * *

(7) " * * * * * And the jury are instructed, that the fact that the parents of said Drusie were either ignorant of the existence of such rule, or refuse to furnish her with a written statement or excuse required by such rule, can furnish no excuse to said Drusie for disobeying or disregarding it; for, if she knew of the rule, it was her duty to inform her parents of it, and it was then the duty of the parents to enable the child to comply with the rule, by furnishing for her the excuse or statement required of them."

The jury found for the school board. [*Illinois Teacher*, 1868, p. 28.]

In *Churchill* v. *Fewkes*, 13 Ill. App. (13 Brad.), 520, the court approved a similar rule, and reversed a verdict for the pupil.

A pupil, upon returning to school after an absence, brought the following written excuse to her teacher:

"Miss Garrett will please excuse Mary's absence for the past two weeks, as she was visiting the St. Louis fair with my consent."

"*Pittsfield, Ill., Oct.* 19, 1874." "J. H. LEDLIE."

The principal refused to receive the excuse as sufficient, and suspended the pupil.

Hon. C. L. Higbee, sitting as circuit judge, granted a writ of *mandamus* against the school board, directing them to admit the child to the school. The judgment was against

the right of the board to make and enforce such a rule, since absence was not a sufficient cause under the statute for suspension.

The rule was as follows:

"Every pupil who shall be absent six half days in four consecutive weeks, without an excuse from the parents or guardian satisfying the teacher that such absence was caused by his own sickness, or by sickness in the family, or to avoid a serious and imprudent exposure of health, shall forfeit his seat in the school. No pupil thus suspended shall be returned to school till the parents or guardian has given satisfactory assurance that the pupil will be punctual in the future, and obtained permission from the principal to return. [*Monthly Western Jurist*, Aug., 1875, p. 238.]

2. *Expulsion Continues how Long?* A pupil having been expelled sometime during a term of school ending Jan. 12, 1887, presented herself at the beginning of the next term, Jan. 13th, seeking admission, and being refused, Hon. Jesse J. Phillips, sitting as circuit judge at Vandalia, granted a writ of *mandamus* against the school board requiring them to admit her, on the ground that such expulsion could extend only to the close of the term ending January 12th.

It would be going too far to infer from this case a general rule, to the effect that expulsion would always terminate at the end of the school term. But, since expulsion is an exceedingly harsh remedy, and since there should be an end of punishment, it is not to be expected that the courts will sustain as reasonable the making an order for expulsion perpetual, regardless of whether the pupil has or has not so far reformed that he may be readmitted without harm to the school; and of whether he has or has not been punished sufficiently for his offence by being deprived of the privileges of the school for a time.

3. *Suspension and Expulsion a Last Resort.* It is plain from these cases that, while school boards may compel obedience and punish by suspension any obstinate infraction of reasonable rules which they have established, recourse should be had to suspension and expulsion from school for grave and aggravated offenses only.

4. *Exclusion in Certain Cases.* Directors may and should exclude from school, for the time being, pupils infected with offensive or contagious diseases. Not for any fault or wrong on their part, but simply because their presence under the circumstances is incompatible with the safety and comfort of others. Their personal rights in the common school are for the time in abeyance—they must be surrendered till they can again be exercised without infringing the equal rights of others. The right to enjoy the benefit of common schools, established for all the inhabitants, is a common, not an exclusive personal right, and hence, like all other common rights, it must be exercised under such limitations and restrictions, that it shall not interfere with the equal and coëxtensive rights of others. [*Spear* v. *Cummings*, 23 Pick., 224.]

If the moral depravity of a child is so great that, though his deportment in school and on the school premises may be good, his example is dangerous to the purity of the school, the school board has power to exclude him. [*Sherman* v. *Charlestown*, 8 Cushing, 160.]

5. *Who may suspend and expel.* The power to suspend and expel rests primarily with the school board. The teacher should act in these matters by their direction, unless, it may be, in a case requiring prompt action; and even then the teacher had better suspend temporarily and refer the case to the directors. [*State* v. *Burton*, 45 Wis., 150.]

6. *Personal Liability therefor.* Notwithstanding the provision of the law, "no action shall lie against them for such expulsion or suspension," as we have seen in *Rulison* v. *Post*, cited above, both the school board and the teacher were held in damages for suspension under a rule declared to be unreasonable and unlawful. But in this case the court evidently regarded the action of the board and the teacher as willfully and maliciously wrong; for in *McCormick* v. *Burt*, [*note* (*c*), 12 *of this section*], the court held that, there being no charge nor proof that the directors had acted wantonly or maliciously, they could not be held liable in damages even if they had erred in judgment.

(*d*) *School Day.* Custom has made six hours a school day, and this should govern except as provided in the statute for children under twelve years, for whom the time in school may be cut down to four hours daily. Permitting the day to be shortened to four hours, impliedly prohibits shortening it to less than four hours. School boards have some discretion in regard to the time of opening and closing school, but are limited in the matter by the fitness of things and general custom.

(*e*)1. *Money for Libraries and Apparatus.* There are two ways in which money may be had for school libraries and apparatus. The directors may make a special levy for such purposes, since they are named as objects for which taxes may be levied, in the first part of the section. But, also, any surplus of the general levy, after all neceessary school expenses have been paid, may be appropriated to the purchase of apparatus and books for the library. See **202.**

2. *Same, not to be purchased on Credit.* A purchase of such articles on credit, when it does not appear that there is any such surplus, is void, and no contract is implied by law to pay for such articles arising from their receipt and use. The only remedy of the seller, in such a case, is to take his property. [*Clark* v. *Directors*, 78 Ill., 474; *Folsom* v. *Directors*, 91 Ill., 402.]

(*f*)1. *Temporary Use of School House for Meetings*, Directors are authorized to "grant the temporary use of school houses, when not occupied by schools, for religious meetings and Sunday schools, for evening schools and for literary societies, and for such other meetings as the directors may deem proper." Directors are clothed with full powers in the premises, and may exercise those powers at their discretion.

2. *Liability of Directors.* In the exercise of the authority so explicitly conferred, they are liable only for manifest abuse of the trusts committed to them; in no other case can they be called to account for what they may see fit to do, or refuse to do, in the premises. Their decision and action are final, unless judicially inquired into, for good cause shown. The power conferred is, however, to be strictly

construed as to collateral matters. The buildings, grounds and appurtenances are to be safe from defacement and injury; the books and utensils of the pupils are not to be meddled with; the fuel and lights belonging to the district are not to be used by temporary occupants without express leave and full compensation; the rooms used are to be left in as good and orderly a condition as when occupied; for all losses and injuries inflicted or caused by such occupancy, to the school buildings and other property of the district, or to the books and other property of the scholars, the directors will be individually and jointly liable. They should, therefore, grant the use of the school house for such purposes to such persons only as are financially responsible and will agree specifically, in advance, to hold themselves personally liable for any and all waste and damage to property and premises.

3. *Not to be granted when School House is occupied by School.* Such use can only be granted when the buildings are "not occupied by schools;" that is, on Saturdays and Sundays, on evenings, and when the schools are not in session. The schools cannot be dismissed in order to accommodate or make room for meetings of the kind specified, or of any other kind.

The use of the word "temporary" in the law should not be overlooked. Making arrangements for the long continued occupancy of the school house by any society, private school or church is not contemplated by the law. [*Sherlock* v. *Winnetka*, 68 Ill., 530; *Weir* v. *Day*, 35 O., 143.]

Permitting the school house to be used for church purposes is not forbidden by section 3 of article 9 of the constitution prohibiting any appropriation in aid of any church. [*Nichols* v. *School Directors*, 93 Ill., 61.]

(*g*) See **61** and *note*.)

148. Warrants not to be drawn when there are no funds—Teacher's warrant excepted. § 28. The school directors shall draw no order or warrant payable on demand, upon the township treasurer, or against any fund in his hands, unless at the time of drawing such order or warrant there are sufficient funds in his hands to pay the amount of the same; *Provided*, this section shall not apply to orders issued to teachers for their wages.

Order void. An order when there is no money in the treasury is void, except of course the teacher's order for wages. [*Cook County* v. *Lowe*, 23 Ill., App. (Smith), 649.]

149. Warrants against uncollected taxes. § 29. Whenever there is no money in the treasury of any school district to meet and defray the ordinary and necessary expenses thereof, it shall be lawful for the board of directors to provide that orders or warrants may be drawn and issued against and in anticipation of the collection of any taxes already levied by said directors for the payment of the ordinary and necessary expenses of any such district, to the extent of seventy-five per centum of the total amount of said tax levy; *Provided*, that warrants drawn and issued under the provisions of this section shall show upon their face that they are payable solely from said taxes when collected, and not otherwise, and such warrants shall be received by any collector of taxes in payment of the taxes against which they are issued, and which taxes against which said warrants or orders are drawn, shall be set apart and held for their payment.*

150. Directors liability. § 30. The school directors shall be liable as directors for the balance due teachers, and for all debts legally contracted.

151. Vote of the people required—Site. § 31. It shall not be lawful for a board of directors to purchase or locate a school house site, or to purchase, build or move a school house, or to levy a tax to extend schools beyond nine months without a vote of the people at an election called and conducted as required by section 4 of article 9 of this act. A majority of the votes cast shall be necessary to authorize the directors to act; *Provided*, that if no one locality shall receive a majority of all the votes cast at such election, the directors may, if in their judgment the public interest requires it, proceed to select a suitable school house site; and the site so chosen by them shall, in such case, be legal and valid, the same as if it had been determined by a majority of the votes cast; and the site so selected by either of the methods above provided shall be the school house site for such district; and said district shall have the right to take the same for the purpose of a school house site either with or without the owner's consent by condemnation or otherwise.

1. *Vote of People upon School Questions.* For a discussion of the various questions relating to the forms of notices, of elections, manner of conducting them, rights of

* Form No. 32.

voters, duties of judges, form of ballots, etc., see **37, 40, 41** and **42,** and the notes thereon.

2. *Notices—Ballots.* When one of these special questions is to be voted upon, the notice becomes of great importance. The directors only may call such an election. The question or questions submitted must be distinctly stated in the notice. See **128,** *note* 5 *and* 6.

3. *Blank Ballots.* Where an election is held to vote on several designated propositions, and some of the ballots are blank in respect to one or more of said propositions, it is held that said blank ballots should not be counted against said one or more propositions. Thus, if the propositions before the meeting are: to levy a tax to extend schools, and to enlarge the school house, (both propositions being voted on at the same time)—and if, fifteen voters being present, it is found that eight of the ballots are for the tax, and seven against—while but six ballots are for enlargement, and four againt, five of the ballots being silent or blank in respect to enlargement, both propositions are to be considered as carried, each having received a "majority of all the votes cast" as required by the law.

4. *Tie Vote.* If a vote upon a special proposition results in a tie, the proposition fails; it has not received a majority of the votes cast.

5. *Vote to build, and for School Site.* A vote on the question of building a school house, may be had either before or after the site is chosen. The two questions are separate and independent of each other, and need not necessarily be both voted on at the same time. The people of a district may become satisfied that a new school house is required before they are prepared to decide upon the site, and they may at once vote on that question and levy a tax to build, leaving the choice of a site to be determined afterwards. The site may be selected at any time before the building is commenced. It is not only legal, but quite customary for a district to commence by taxation, the accumulation of a building fund, before the site is chosen.

6. *May build on Old Site.* If an election is called to vote on the question of building a new school house, nothing being said in the notices about a change of site, and a majority of the votes cast is in favor of building, the directors may lawfully proceed to build upon the old site. In such cases the presumption is that no change of site is desired by the people.

7. *Questions may be voted on a Second Time.* An election for a school officer is final. But it is held that no such limitation necessarily applies to voting upon school questions such as extending schools, borrowing money, choosing sites, etc. The only restriction is that ten days' notice must be given as required by section forty-two. Take the case of a school site, for instance: One may be choosen without due deliberation—or in ignorance of important facts in regard to title, etc.; or when but a very few voters were or could be present; or it may afterwards be determined to divide or enlarge the district, rendering the site chosen inconvenient; or another and more eligible site, and at less cost, may subsequently be offered;—these and many other equally strong reasons may make it plainly for the interest of a district to take different action, and to call another meeting for that purpose; and it is held that it may legally be done, by the directors, upon proper notice as aforesaid. The inhabitants should have the largest liberty in such matters, compatible with the rights of others, and their rights in the premises are not restricted by either the letter or spirit of the law. If a former vote is to be thus in effect rescinded, action must be taken before expenses are incurred by, or rights accrue to, other parties under the original vote. And if another meeting is called, it must be by the directors, by whom all notices of district elections must be issued. The directors have discretion in such cases—they can not be compelled to call another meeting. But they are clearly empowered to do so, and should not decline to issue the notices when it is the wish or request of a majority of the inhabitants of the district. If the different proposition submitted at the second election fails, the directors are bound to comply with the first vote. [*Pennington* v. *Coe*, 57 Ill., 118.]

8. *Effect of a Vote to build a School House, or to purchase a Site.* The proposition in relation to building a house or purchasing a site may be stated in the notice and the ballot with some limitation as to cost; and, if so stated, the directors will be bound by the limitation. [*Carlton* v. *Newman*, 77 Me., 408.] But if the notices merely state, in general terms, that the object of the election is to vote for or against authorizing the directors to build a new school house, or to purchase a new site, and a clear majority is in favor of building or purchasing, it is held that the directors are thereby empowered to take the necessary steps to carry out, in their best discretion, the wishes of the inhabitants of the district, subject to the restrictions of the law in respect to the amount of tax that may be levied.

The vote to build a house or to purchase a site does not give power to borrow money for such purposes. [**215,** *note* 2.]

9. *A Second Ballot cannot be taken at the Same Election.* When, at any election in a school township or district, a ballot is regularly taken and the result announced said ballot is conclusive and final. Another ballot, at the same meeting, cannot be had, either to gratify disappointed and dissatisfied voters, or for any other reason. The moment the balloting is concluded, the powers of the voters, at that election, are exhausted. A second ballot if taken, would be illegal and void.

10. *Mandamus to compel Directors to act.* When directors are instructed by a vote of the people, legally taken to levy a tax or borrow money to build a school house, or to do any other act or thing which the inhabitants of a district may lawfully require to be done by them, and said directors neglect or refuse to obey such instructions—and when directors fail or refuse to discharge the duties clearly imposed upon them, as directors, by law, and the people of the district have no other recourse or remedy—in all such cases, a writ of *mandamus* will lie to the board of directors, commanding and compelling them to discharge their duty. [*Beverly* v. *Sabin*, 20 Ill., 357; *Cotton* v. *Reed, Ibid.*, 607.]

11. *Choice of Site by Directors.* If the proposition to select a site for a school house is submitted without restriction, so that each voter can vote for such site as he pleases, then if no site receives a majority of the votes, the directors may select a site. But if the proposition is submitted in such a way as to restrict the vote to one or more sites named, then in case no site receives a majority of the votes cast, the directors should not select a site themselves; they should call another election.

152. Site taken by right of eminent domain. § 32. In case the compensation to be paid for the school house site mentioned in the preceding section can not for any reason be agreed upon or determined between the school directors and the parties interested in the land taken for such site, then it shall be the duty of the directors of such district to proceed to have such compensation determined in the manner which may be at the time provided by law, for the exercise of the right of eminent domain; *Provided*, that no tract of land lying outside of the limits of any incorporated city or village, and lying within forty rods of the dwelling house of the owner of the land, shall be taken for a school site without the owner's consent.

When Owners of Land will not sell it for a School House. If a site selected for a school house cannot be bought of the owner, the land may be condemned; provided that, if it is outside the limits of any incorporated city or village and also within forty rods of the dwelling house of the owner, it cannot be taken. A site cannot be condemned before it has been legally chosen. [*Gerke* v. *Purcell*, 25 Ohio St., 229.]

Improved real estate can be seized, and lots already in use may be enlarged. [*Thompson* v. *District*, 1 Chester Co. R., 493.]

The directors should always aim to get a clear title to the site, and the deed should be taken in the name of the township trustees of schools. [**60,** *notes* 2, 4, 5 *and* 6.]

153. Removal. § 33. Any director willfully failing to perform his duties as director under this act may be removed by the county superintendent, and a new election ordered, as in other cases of vacancies.

See **20,** *seventh and note* (*c.*)

154. Funds to be paid on orders—Form of order. § 34. All funds belonging to any school district, and coming from any source, shall be paid out only on order of the board of directors, signed by the president and clerk of said board, or by a majority of said board. In all such orders shall be stated the purpose for which or on what account such order was drawn. Said order may in the following form:

The treasurer of township No....., range No....., in..... county, will pay to.....or bearer.....dollars and..... cents, (on his contract for repairing school house or whatever the purpose may be.) By order of the board of directors or school district No....., in said township.

A.....B....., *President.*
C.....D....., *Clerk.*

See **238, 239** and **240**, and notes.

155. Transfers. § 35. Pupils shall not be transferred from one district to another without the written consent of a majority of the directors of each district, which written consent shall be delivered to and filed by the proper township treasurer, and shall be evidence of such consent.* A separate schedule shall be kept for each district and in each schedule shall be certified the proper amount due the teacher from that district, computed upon the basis of the total number of days' attendance of all schedules. If the district from which the pupils are transferred is in the same township as the district in which the school is taught, the directors of said district shall deliver the separate schedules to their township treasurer, who shall credit the district in which the school was taught and charge the other district with the respective amounts certified in said separate schedules to be due. If pupils are transferred from a district of another township the schedule for that district shall be delivered to the directors thereof, who shall immediately draw an order on their treasurer in favor of the treasurer of the township in which the school was taught for the amount certified to be due in said separate schedule.

1. *Transfers—Continuance of.* The best course of procedure with reference to permits is that the pupil desiring one, or his parent or guardian for him, first ask the board of directors of the district in which he lives to grant it. This is official business and should be considered only at a meeting of the board, and a record should be kept of the action of the board upon the request; If granted, the time for which the permit is given should be stated in it.

* Form No. 34.

The rule laid down by the supreme court in the decision with regard to the term for which directors may employ teachers [*Stevenson* v. *Directors*, 87 Ill., 255], applies also with equal force to permits. Except in cases requiring it, the board of directors should make no contracts and grant no permits that will hamper the action of their successors in the office. No permits should be granted before the April election for a term to begin after the election; but in case they are given for a term beginning before the election and continuing after it, they may be drawn to continue in force for the whole term.

The permit should then be presented to the board of directors of the district in which the pupil wishes to attend school; and, if approved by them, it may be so endorsed.

The pupil should then take his permit to the teacher of the school who should enter upon the school register his name, the title of the district to which he belongs, the number of months of school for which the permit holds good, and the date of its expiration, and return the permit to his directors.

2. *Separate Schedules.* The law requires teachers of schools containing transferred pupils to make out separate schedules for them. It will be found best to make out these schedules at the same time that the regular schedules for the district are made out. In fact, a strict construction of **196** of the school law would prevent a teacher from claiming his pay for any month until such schedules have been made out and delivered to the directors of his district. If the pupils are transferred from a district in the same township, the directors have only to certify the separate schedule and deliver it to the township treasurer, whose duty it becomes upon receiving the schedule, and not before, to charge to one district, and to credit to the other, the amount which the schedule shows to be due. But if the pupils come from another township, then the directors must take the schedule to the other board of directors, who should, upon finding it correct, approve it, and then, and not before, draw an order upon their treasurer in favor of the treasurer of the other district.

3. *When Transfers should be made.* Such transfers should be made whenever the interests of particular pupils can be served thereby without serious loss to either district concerned; and when asked for good and sufficient reasons they should not be refused on narrow and illiberal grounds.

4. *Duty of Teacher.* The teacher should ascertain the residence of pupils and refer to the directors all pupils from outside the district not already admitted by the board, in order that the board may settle all questions regarding their admission; for these must be determined by the board not by the teacher.

156. Transfer dues collected. § 36. When a school is composed in part of pupils transferred, as provided for in the preceding section, from other townships, the duty of collecting the amount due on account of such pupils shall devolve upon the directors of the district in which the school was taught.

Moneys received on Transfer. Moneys so collected by the directors must be paid at once to their treasurer; for he is by law the only lawful depositary and custodian of all district school funds.

ARTICLE 6.

BOARD OF EDUCATION.

§ 1. Cities and villages.
§ 2. Boards of education in all districts not less than 1,000 inhabitants; number of members.
§ 3. President of the board.
§ 4. Duties and powers of the president.
§ 5. Annual election of members; term of office.
§ 6. Notice of election; form of notice.
§ 7. Election on any Saturday.
§ 8. Conduct of election.
§ 9. Election of members of board of education to succeed directors.
§ 10. Powers and duties of the board defined.
§ 11. Yeas and nays.
§ 12. Business to be done at a regular or special meeting.
§ 13. Conveyances of real estate; how made.
§ 14. School moneys in charge of township treasurer.
§ 15. Special acts may be relinquished; manner of change and form of notice.
§ 16. Redistricting under this act; election of school boards.
§ 17. Cities exceeding 100,000 inhabitants.
§ 18. Eligibility to membership in boards of education in such cities.
§ 19. Organization; employes of the board, term etc.
§ 20. Records; yeas and nays.
§ 21. Powers, with concurrence of city council, defined.
§ 22. Other powers defined.
§ 23. Duties defined.
§ 24. Business to be done at a regular meeting.
§ 25. Conveyances of real estate made to city in trust.
§ 26. School moneys held by city treasurer.
§ 27. City not liable for excess of expenditures; board not authorized to tax.
§ 28. Powers of the board not to be exercised by city council.

157. Incorporated cities and villages not under special laws. SECTION 1. Incorporated cities and villages, except such as now have charge and control of free schools by special acts, shall be and remain parts of the school townships in which they are respectively situated and be subject to the general provisions of the school law, except as otherwise provided in this article.

158. Boards of education elected. § 2. In all school districts having a population of not less than one thousand and not over one hundred thousand inhabitants, and not governed by any special act in relation to free schools now in forcethere shall be elected, instead of the directors provided by law in other districts, a board of education, to consist of a president of the board of education, six members and three additional members for every additional ten thousand inhabitants. Whenever additional members of such board of education are to be elected by reason of increased population of such district, such members shall be elected on the third Saturday of April succeeding the ascertaining of such increase by any special or general census, and the notice of such election shall designate the term for which the members are to be elected, so that one-third of the board shall be elected for each year: *Provided*, that in no case shall said board consist of more than fifteen members.

1. *Incorporated Cities and Villages under the General School Law.* The change from directors to a board of education is, in one sense, a mere change in local autonomy; none of the powers previously exercised are lost, none of the restrictions previously imposed are abated by the change, and no new powers are acquired except such as are specifically conferred by this section.

2. *Special or General Census.* A general census is one taken all over the state by state or national authority. The statute does not enjoin upon any one the taking of a special census in order to ascertain whether a district has the prescribed population; it is left optional with the local authorities to take such special census or not. It is held that such census may be taken either by the board of directors of the district, or by order of the board of trustees of the township in which such district is situated.

If the census is taken by the directors, their resolution or order requiring it to be done, should be duly spread upon their records; and when the enumeration is completed,

the result showing the number of inhabitants found to be in the district, should also be entered of record by the clerk of the board. If the number is found to equal or exceed one thousand, then, at some stated or special meeting an order should be made and recorded that a board of education be elected at the next ensuing election of directors. If the special census is taken by order of the trustees, the result, duly certified and sworn to by the person or persons employed to do the work, should be filed by the trustees with the board of directors, whose duty it will then be to take the necessary steps for the election of a board of education in and for said district, as aforesaid. If after the filing of such certified statement the directors refuse or neglect to order the election of a board of education, as required by law, it will become the duty of the township treasurer to order such election, as provided by the forty-second section of this act in respect to other cases of default on the part of directors. And the election held in pursuance of such order by the treasurer will be legal and valid, the same as if held by order of the directors, and the board of education so elected will be duly authorized, and it will be their duty, to proceed to organize and take charge of the schools of the district, as enjoined by law. I am authorized to say that the attorney general concurs in the foregoing opinion.

159. President elected. § 3. The president of said board of education shall be elected annually, at the same time the members of the board of education are elected, and he shall hold his office for the term of one year, and until his successor is elected and qualified.

160. His duties. § 4. The president of the board of education so elected shall preside at all meetings of said board, and shall give the casting vote in case of a tie between the members thereof; but otherwise he shall not have a vote. He shall sign all orders for the payment of money ordered by said board, and generally perform such duties as are imposed by law upon presidents of boards of directors, or that may be imposed upon him by said board of education, not in conflict with law: *Provided*, that in the absence or inability to act as said president, said board may appoint a president *pro tempore* from their number.

Duties Imposed upon President—Quorum. The duties imposed by law upon the president elected under this act, are (1) to preside at the meetings of the board; (2) to vote in case of a tie, and (3) to sign orders. He does not count to make a quorum; nor does he perform any other duties, unless so directed by the board.

161. Annual election. § 5. The annual election of members of the board of education shall be on the third Saturday in April, when one-third of the members shall be elected for three years, and until their successors are elected and qualified.

Vacancy in the Board. Since there is no special provision in the statute for filling vacancies in a board of education, the same rule must be followed with regard to them as with regard to vacancies in a board of directors. [**129,** *note.*]

162. Notice. § 6. Notice of such election shall be given by the board of education at least ten days previous to such election by posting notices in at least three of the most public places in said district, which shall specify the place where such election is to be held, the time of opening and closing the polls and the purpose for which such election is held, which notice may be in the following form, to-wit:

Public notice is hereby given, that on Saturday, the .... day of April, A. D. ....., an election will be held at ....., between the hours of .... and .... of said day, for the purpose of electing a president of the board of education of district No....., township No....., range No....., and ..... members of the board of education of said district.

Dated this.....day of ....., A. D.....

A.....B....., *President.*
C.....D....., *Clerk.*

163. Failure of notice. § 7. In case of a failure to give the notice above provided for, such election may be held on any Saturday after such notice has been given as aforesaid.

164. Conduct of election. § 8. Such election shall be conducted in the same manner and be governed by the provisions of this act relating to the election of boards of directors, except as otherwise provided by law.

165. First election of board of education. § 9. At the first election of directors succeeding the passage of this act, in any district having a population of not less than one thousand (1,000) inhabitants by the census of 1880, and in such other districts as may hereafter be ascertained by any special or general census to have a population of not less than one thousand (1,000) inhabitants, at the

first election of directors occurring after taking such special or general census, there shall be elected a board of education, who shall be the successors of the directors of the district; and all rights of property and all rights or causes of action existing or vested in such directors, shall vest in said board of education, in as full and complete a manner as was vested in the school directors. Such board, at its first meeting, shall fix, by lot, the terms of office of its members, so that one-third of them shall serve for one year, one-third for two years, and one-third for three years, and thereafter one-third shall be elected annually on the third Saturday in April, to fill the vacancies occurring, and to serve for the term of three years.

166. Official powers. § 10. The board of education shall have all the powers of school directors, and, in addition thereto and inclusive thereof, they shall have the power and it shall be their duty—(*a*)

First—To establish and support free schools not less than six nor more than ten months in each year. (*b*)

Second—To repair and improve school houses, and furnish them with the necessary fixtures, furniture, apparatus, libraries and fuel.

Third—To examine and employ teachers, and fix the amount of their salaries. (*c*)

Fourth—To establish schools of different grades, and make regulations for the admission of pupils into the same.

Fifth—To buy or lease sites for school houses, with the necessary grounds; *Provided*, it shall not be lawful for such board of education to purchase or locate a school house site, or to purchase, build or move a school house, unless authorized by a majority of all voters voting at an election called for such purpose in pursuance of a petition signed by not less than five hundred (500) legal voters of such district, or by one-fifth of all the legal voters of such district. (*d*)

Sixth—To levy a tax, annually, upon the taxable property of the district, in the manner provided in article 8 of this act, for the purpose of supporting and maintaining free schools in accordance with the powers herein conferred; *Provided*, that it shall not be lawful for such board of education to levy a tax to extend schools beyond a period of ten months in each year, except upon petition of a majority of the voters of the district. *And provided further*, that all taxes shall be levied under the limitations relating to the percentage of the assessment, as provided by section 1 article 8 of this act.

Seventh—To employ, should they deem it expedient, a competent and discreet person or persons as superintend-

ent or superintendents of schools, and fix and pay a proper salary or salaries therefor; and such superintendent may be required to act as principal or teacher in such schools.

Eighth—To lay off and divide the district into sub-districts, and from time to time, alter the same, create new ones and consolidate them.

Ninth—To visit all the public schools as often as once a month to inquire into the progress of scholars and the government of the schools.

Tenth—To prescribe the method and course of discipline and instruction in the respective schools, and to see that they are maintained and pursued in the proper manner.

Eleventh—To expel any pupil who may be guilty of gross disobedience or misconduct. No action shall lie against them for such expulsion.

Twelfth—To dismiss and remove any teacher, whenever, in their opinion, he or she is not qualified to teach, or whenever, from any cause, the interests of the schools may, in their opinion, require such removal or dismissal. (*e*)

Thirteenth—To apportion the scholars to the several schools.

Fourteenth—To establish and promulgate all such by-laws, rules and regulations for the government and the establishment and maintenance of a proper and uniform system of discipline in the several schools, as may, in their opinion, be necessary.

Fifteenth—To take charge of the school houses, furniture, grounds and other property belonging to the district, and see that the same are kept in good condition, and not suffered to be unnecessarily injured or deteriorated.

Sixteenth—To provide fuel and such other necessaries for the schools as, in their opinion, may be required in the school houses, or other property belonging to or under the control of the district.

Seventeenth—To appoint a secretary and provide well bound books at the expense of the school tax fund, in which shall be kept a faithful record of all their proceedings. (*f*)

Eighteenth—To annually prepare and publish in some newspaper, or in pamphlet form, a report of the number of pupils instructed in the year preceding, the several branches of study pursued by them, of the number of persons between the ages of twelve and twenty-one unable to read and write, and the receipts and expenditures of each school, specifying the source of such receipts and the objects of such expenditures. (*g*)

(*a*) *Powers and Duties of School Boards.* As stated in **158,** *note* 1, the change from a board of directors to a board of education does not involve to any great extent a change of the powers and actions of the governing board. No attempt is made in this section to give an exhaustive enumeration of these powers and duties. In commenting upon them, for the most part, subjects already discussed will not be considered again; and so for many matters of common interest to boards of education and boards of directors, the reader is referred to the sections of Art. 5, and the notes thereon.

(*b*) *Term of School.* The minimum term of a legal school in a district of not less than one thousand inhabitants is six months. [**146,** *fifth* and **202.**]

(*c*) *Examination of Teachers.* Boards of education are held to possess substantially the same rights and powers, and to be charged with about the same duties, in respect to the employment of teachers, as ordinary boards of school directors. They cannot employ, or pay from any school fund, a teacher who does not hold the certificate of the state or county superintendent, but they are not required to accept such certificate as final and conclusive; they are not debarred the privilege (possessed by all boards of directors) of inquiring further into the character and abilities of the teacher, and accepting or rejecting him according to the result of such further inquiry. Indeed it is made the duty of the board to institute such additional and independent examination into the fitness and worthiness of the persons whom they propose to employ as teachers, and to govern themselves accordingly. But a certificate from the state or county superintendent of schools, is nevertheless to be understood as a condition precedent to the legal employment or payment of a teacher.

(*d*) 1. *Vote needed to authorize the Board to act upon Certain Other Propositions.* But the board of education can borrow money or refund outstanding loans, only by submitting these propositions to a vote just as a board of directors must. The board in building a house must follow the law exactly. [*Board of Education* v. *Rocher,* 23 Ill. App. (Smith), 629.]

2. *Other Branches.* As to introducing "other branches, including music and drawing," the board of education has the same power as the board of directors; the board may act of its own motion, or the proposition may be submitted to a vote. [**190,** *note.*]

(*e*) *Removal of Teachers.* The board of education seems to be given larger powers than school directors in regard to dismissing teachers; but the courts have not passed upon the meaning of the language used in the statute in this connection. [*Dunavon* v. *Board of Education,* 47 Hun, 13.]

(*f*) *Secretary of the Board.* The secretary of the board of education may be a member of the board, or he may be some other person. The secretary may be paid for clerical services, as the clerk of the board of directors may. [**147,** *second.*]

(*g*) *Report published.* School directors make their report to the voters at the annual election, and they also post at that time, upon the door of the building where the election is held, the two preceding semi-annual statements received from the township treasurer. [**146,** *first*; **114,** *note* 1.] This published report is in place of what is required of the directors.

167. Yeas and nays. § 11. In all questions involving the expenditure of money, the yeas and nays shall be taken and entered on the records of the proceedings of the board.

168. Meetings. § 12. None of the powers herein conferred upon boards of education shall be exercised by them, except at a regular or special meeting of the board.

169. Conveyances. § 13. All conveyances of real estate shall be made to the township trustees in trust for the use of schools, and no conveyance of any real estate or interest therein used for school purposes, or held in trust for schools, shall be made, except by the board of trustees, upon the written request of such board of education.

Sale of Real Estate. Real estate held by the trustees of schools for a district under a board of education may be disposed of by the trustees, on the written request of the board. No petition by the voters is needed, as in the case of a district under a board of directors. [**61,** *note.*]

170. Funds held by township treasurer. § 14. All money raised by taxation for school purposes, or received from the state common school fund, or from, or from any other source, for school purposes, shall be held by the township treasurer as a special fund for school purposes, subject to the order of the board of education, upon warrants signed, by the president and secretary thereof.

171. Special law surrendered. § 15. Any city, incorporated town, township or district in which free schools are now managed under any special act, may, by vote of its electors, cease to control such schools under such special act, and become a part of the school township in which it is situated, and subject to the control of the trustees thereof, under and according to the provisions of this act.

Upon petition of fifty voters of such city, town, township or district, presented to the board having the control and management of schools in such city, town, township or district, it shall be the duty of such board, at the next ensuing election to be held in such city, town or township or district, to cause to be submitted to the voters thereof giving not less than fifteen days' notice thereof, by posting not less than five notices in the most public places in such city, town, township or district, the question of "Organization under the Free School Law;" which notice may be in the following form, to-wit:

Public notice is hereby given that on the.....day of.....A. D....., an election will be held at.....between the hours of.....M. and..... M. of said day, for the purpose of deciding the question of "Organization under the Free School Law."

Surrender of a special School Law. A special school law may be repealed by the legislature; and the effect of such a repeal would be to restore the *status quo* of the time when the special law was enacted. But if the special law is given up in the way provided in this section, the effect is to open up the whole township (or townships if the special district be in more than one township) to be redistricted, the trustees having the same power as in a newly organized township under **75**.

Another effect is to vest the title to the property of the original district in the trustees of schools of the township and to transfer its funds to the township treasurer, if they have been held in some other name or by other hands.

When the trustees have in this way reorganized the township, or any part of it—for they need not, unless they deem it better so to do, disturb the other districts—they must

call an election in the new district or districts, etc., etc., as provided in **88.**

172. Redistricting—Division of funds—Election. § 16. If it shall appear, on a canvass of the returns of such election, that a majority of the votes cast at such election are "For Organization under the Free School Law," then at the next ensuing regular meeting of the board of trustees of the township or townships in which such city, incorporated town, township or district is situated, said trustees shall proceed to re-district the township or townships as aforesaid, in such manner as shall suit the wishes and convenience of a majority of the inhabitants in their respective townships, and to make a division of funds and other property in the manner provided for by section 63 of article 3 of this act, and on any Saturday thereafter there shall be elected, in each of the new districts so formed, a director, directors, or board of education, as the case may be, in the manner provided for in section 6 of article 5 of this act; and thereafter such district shall proceed as other districts under this act, but all subsequent elections of directors or boards of education shall be conducted as provided in sections 5 and 8 of article 5 of this act.

173. In cities having of more than 100,000 inhabitants. § 17. In cities having a population exceeding one hundred thousand inhabitants, from and after this act shall take effect, the board of education shall consist of fifteen members, to be appointed by the mayor, by and with the advice and consent of the common council, five of whom shall be appointed for the term of one year, five for the term of two years, and five for the term of three years; *Provided, however*, that in such cities wherein there is now a board of education, holding their office by appointment, such officers shall continue in office until the time at which their terms would have expired under the law in force at the time of their appointment. At the expiration of the term of any members of said board, their successors shall be appointed in like manner, and shall hold their office for the term of three years. Any vacancy which may occur shall be filled by the appointment of the mayor, with the approval of the common council, for the unexpired term.

Cities with over One Hundred Thousand Inhabitants. This section applies to the city of Chicago alone, and is, therefore, passed without comment.

174. Eligibility. § 18. Any person having resided in any such city more than five years next preceding his appointment, shall be eligible to membership of such board of education.

175. President—Secretary. § 19. The said board of education shall appoint a president and secretary, the president to be appointed from their own number, and shall appoint such other officers and employés as such board shall deem necessary, and shall prescribe their duties and compensation and terms of office.

176. Records. § 20. The said board shall provide well bound books, at the expense of the school tax fund, in which shall be kept a faithful record of all their proceedings. The yeas and nays shall be taken and entered on the records of the proceedings of the board upon all questions involving the expenditure of money.

177. Powers exercised with concurrence of common council. § 21. The said board of education shall have control of the puplic schools in such cities, and shall have power, with the concurrence of the city council—

First—To erect or purchase buildings suitable for school houses, and keep the same in repair.

Second—To buy or lease sites for school houses, with the necessary grounds.

Third—To issue bonds for the purpose of building, furnishing and repairing school houses, for purchasing sites for the same and to provide for the payment of said bonds; to borrow money for school purposes upon the credit of the city.

178. Powers. § 22. The said board of education shall have power—

First—To furnish schools with the necessary fixtures, furniture and apparatus.

Second—To maintain, support and establish schools, and supply the inadequacy of the school funds for the salaries of school teachers from school taxes.

Third—To hire buildings or rooms for the use of the board.

Fourth—To hire buildings or rooms for the use of schools.

Fifth—To employ teachers and fix the amount of their compensation.

Sixth—To prescribe the school books to be used, and the studies in the different schools.

Seventh—To lay off and divide the city into school districts, and from time to time to alter the same and create new ones, as circumstances may require, and generally to have and possess all the rights, powers and authority required for the proper management of schools, with power to enact such ordinances as may be deemed necessary and expedient for such purpose.

Eighth—To expel any pupil who may be guilty of gross disobedience or misconduct.

Ninth—To dismiss and remove any teacher whenever, in their opinion, he or she is not qualified to teach, or whenever, from any cause, the interests of the school may, in their opinion, require such removal or dismission.

Tenth—To apportion the scholars to the several schools.

Eleventh—To lease school property, and to loan moneys belonging to the school fund.

179. Duties. § 23. It shall be the duty of such board of education—

First—To take the entire superintendence and control of the schools in such cities.

Second—To examine all persons offering themselves as candidates for teachers, and, when found well qualified, to give them certificates gratuitously.

Third—To visit all the public schools as often as once a month.

Fourth—To establish all such by-laws, rules and regulations for the government and for the establishment and maintenance of a proper and uniform system of discipline in the several schools as may, in their opinion, be necessary.

Fifth—To determine from time to time, how many and what class of teachers may be employed in each of the public schools, and employ such teachers and fix their compensation.

Sixth—To take charge of the school houses, furniture, grounds and other property belonging to the school districts, and see that the same are kept in good condition, and not suffered to be unnecessarily injured or deteriorated.

Seventh—To provide fuel and such other necessaries for the schools as, in their opinion, may be required in the school houses or other property belonging to the said districts.

Eighth—To inquire into the progress of scholars and the government of the schools.

Ninth—To prescribe the method and course of discipline and instruction in the respective schools, and to see that they are maintained and pursued in the proper manner.

Tenth—To prescribe what studies shall be taught, and what books and apparatus shall be used.

Eleventh—To report to the city council, from time to time, any suggestions they may deem expedient or requisite in relation to the schools and the school fund, or the management thereof, and generally to recommend the establishment of new schools and districts.

Twelfth—To prepare and publish an annual report, which shall include the receipts and expenditures of each school, specifying the source of such receipts and the object of such expenditures.

Thirteenth—To communicate to the city council, from time to time, such information within their possession as may be required.

180. Powers to be used at meetings only. § 24. None of the powers herein conferred upon the board of education of such cities shall be exercised by them except at a regular meeting of such board.

181. Conveyances. § 25. All conveyances of real estate shall be made to the city in trust, for the use of schools, and no sale of real estate or interest therein, used for school purposes, or held in trust for schools, shall be made except by the city council, upon the written request of such board of education.

182. Funds held by city treasurer—How paid out. § 26. All moneys raised by taxation for school purposes, or received from the state common school fund, or from any other source for school purposes, shall be held by the city treasurer as a special fund for school purposes, subject to the order of the board of education, upon warrants to be countersigned by the mayor and city clerk.

183. Expenditures limited—Power to levy tax not granted. § 27. Said board of education shall not add to the expenditures for school purposes anything over and above the amount that shall be received from the state common school fund, the rental of school lands or property, and the amount annually appropriated for such purposes. If said board shall so add to such expenditure the city shall not, in any case, be liable therefor. And nothing herein contained shall be construed so as to authorize any such board of education to levy or collect any tax upon the demand, or under the direction of such board of education.

184. City not to exercise powers of school board. § 28. All schools in such cities shall be governed as hereinbefore stated, and no power given to the board of education shall be exercised by the city council of such city.

ARTICLE 7.

TEACHERS.

§ 1. Age and qualifications; graduates of county normal schools.
§ 2. State certificates; graduates of the normal universities.
§ 3. First and second grade certificates; subjects for examination; renewal and revocation; form of certificate.
§ 4. Record by county superintendent.
§ 5. Must have a certificate.
§ 6. Subjects to be taught.
§ 7. Examinations by county superintendent.
§ 8. Fee to be charged.
§ 9. Moneys thus received paid to county treasurer.
§ 10. Annual institute.
§ 11. No deduction of wages when attending institutes held on school days.
§ 12. Responsible for the property of the district
§ 13. Must keep registers; form of register.
§ 14. Schedules, or statements of attendance to be made; form of schedule.
§ 15. Schedule to be delivered to directors; certificate of directors.
§ 16. Teachers' wages payable monthly; unpaid orders to draw interest.
§ 17. School month; holidays.

185. Qualifications of teachers—Age—Diploma of county normal school. SECTION 1. No teacher shall be authorized to teach a common school under the provisions of this act who is not of good moral character, at least eighteen years of age, if a male, or seventeen years of age, if a female, and who does not possess a certificate of qualifications as hereinafter provided for: *Provided*, that in any county in which a county normal school is established, under the control of a county board of education, the diplomas of graduates in said normal school shall, when directed by said board, be taken by the county superintendent as sufficient evidence of qualification to entitle the holder to a first grade certificate, but such diplomas shall not be sufficient after two years from such graduation.

186. State certificates. § 2. The state superintendent of public instruction is hereby authorized to grant state certificates to such teachers as may be found worthy to receive them; such certificates shall be of two grades, and both shall be valid in every county and school district in the state. The higher grade shall be valid during the lifetime of the holder, and the lower grade shall be valid for five years. But state certificates shall only be granted upon public examination, of which due notice shall be given, in such branches and upon such terms and by such examiners as the state superintendent and the principals of the state universities may prescribe. Said certificates may be revoked by the state superintendent upon proof of immoral or unprofessional conduct: *Provided*, the lower grade of certificate shall be issued to graduates of the state normal schools without examination at any time within two years of said graduation: *Provided, further*, that no

such certificate shall be granted except upon the recommendation of the faculty and the controlling board in each case.

State Certificates. It is the custom of the state superintendent of public instruction to issue a circular from time to time relative to the examination for state certificates. The circular and any other information concerning this grade of certificates can be obtained upon application to him.

187. Examinations—Certificates—Renewal and Revocation. § 3. It shall be the duty of the county superintendent to grant certificates to such persons as may, upon due examination, be found qualified. Said certificates shall be of two grades; those of the first grade shall be valid in the county for two years, and shall certify that the person to whom such certificate is given is of good moral character, and is qualified to teach orthography, reading in English, penmanship, arithmetic, English grammar, modern geography, the elements of the natural sciences, the history of the United States, physiology and the laws of health. Certificates of the second grade shall be valid for one year, and shall certify that the person to whom such certificate is given is of good moral character, and is qualified to teach orthography, reading in English, penmanship, arithmetic, English grammar, modern geography and the history of the United States. The county superintendent may in his option, renew said certificate at their expiration, by his endorsement thereon, and may revoke the same at any time for immorality, incompetency, or other just cause*. Said certificates may be in the following form, viz:

.....Illinois, A. D.....

The undersigned, having examined.....in orthography, reading in English, penmanship, arithmetic, English grammar, modern geography, the history of the United States and methods of teaching, and being satisfied that ..... is of good moral character, hereby certifies that.....qualifications in the above branches are such as to entitle.....to this certificate, being of the.....grade, and valid in said county for.....year from the date hereof, renewable at the option of the county superintendent, by his endorsement thereon.

Given under my hand and seal at the date aforesaid.

A. B., *County Superintendent of Schools.*

1. *Who may be examined—Moral Character—Age.* If a county superintendent is satisfied that an applicant for a certificate is not a person of such moral character as the teacher should possess, and that he can not on that account license him to teach, he need not examine him as to his other qualifications. Teachers in this state can be

*Forms Nos. 38, 39, 40.

questioned and inquired about, in respect to their moral character, in the ordinary acceptation of that phrase, but no inquisition whatever can be made into their particular religious opinions and beliefs; or if so questioned, they may refuse to answer. And if the county superintendent should find the applicant to be of unblemished morals, and of suitable scholastic attainments, a license could not be refused on the ground of his holding or discarding any peculiar religious views, or for refusing to answer any questions in relation thereto; for no person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship. [*Const. of Ill., Art.* 2, § 3.]

While the law fixes a *minimum* age at which persons may be granted certificates, certainly, immature boys and girls may not be put in charge of schools. County superintendents will not act unwisely if they follow quite closely the suggestion of the law, which calls minors infants and children, and keeps them subject to many disabilities and to the control of parents and guardians. Surely, maturity and strength of character are needed to manage a school successfully and to determine wisely the important questions which demand an answer of the teacher almost daily.

2. *Discretion of the County Superintendent.* The law does not prescribe much with regard to the examination. It uses the term "due examination" and says that the superintendent must certify that those whom he licenses after such an examination are "qualified to teach" certain branches of study. The manner, form, and extent of the examination are left to the discretion of the superintendent. The law does not require that he shall demand the same written examination of all applicants. He may determine whether or not it is necessary to examine in the same way the teacher of known and tried intelligence and ability, the beginner, and the teacher of whose previous work he knows nothing.

The extent and the limitation of his discretion in granting or refusing a certificate have been stated by the supreme court of Indiana recently as follows:

"The office of county superintendent belongs to the executive department of the state, and the statute does not confer upon the incumbent either judicial or *quasi* judicial power in the matter of licensing persons to teach in the common schools.

"The statute confers upon the county superintendent a discretion on the subject of licensing teachers, which is so far analagous to judicial discretion that he is protected from any claim for damages on account of any mere mistake in his decision, or error in judgment, either in granting or withholding a license.

"A county superintendent is liable in damages for maliciously withholding a license to teach from an applicant lawfully entitled to receive the same, and he will be held to have acted maliciously where he acts either from willful and wicked or from corrupt motives." [*Elmore* v. *Overton*, 104 Ind., 548.]

3. *Suggestions as to the Examination.* Perhaps the most difficult and responsible duty devolved by law upon county superintendents, is that of determining who shall be the teachers of our common schools. Certificates are to be granted to those only who, upon *due examination,* are found to possess the qualifications required by the act.

Every certificate issued to one who is unworthy, either mentally or morally, to receive it, is not only a violation of law, but is a direct blow at the heart of our common schools. Such a certificate is an official license, not to elevate and bless, but to injure and degrade, and it may be to contaminate and curse the schools and the community. Good schools can not be taught by incompetent teachers; the moral atmosphere of the schools can not be kept pure by profane or irreverent teachers. It is by no means a self-evident truth that poor schools are better than none; they may be so poor as to be a great deal worse than none. Superintendents should strive to convince school officers and parents how difficult it is to eradicate wrong habits of study, carelessness and inattention, false ideas of facts and principles, from the tenacious and imitative minds of children, when once implanted by smatterers and pretenders in the great art of teaching; and that it is far better to wait until a good and safe teacher can be procured, though at a greater cost, than to accept the services of any other, at any price.

It is best to combine the two methods of examination, oral and written. Each has its advantages; methods of teaching, skill in expedients, aptness in illustration, etc., can be best brought out by the oral method; while habits of thinking and modes of reasoning, proofs of discipline and accuracy, acquaintance with principles, and general availability of knowledge, etc., are best shown by the written method. As a general rule, the poorer the attainments of the applicant, the longer it will take to examine him, and *vice versa*. A person may be found worthy of licensure, upon a fair estimate of average ability in the details of each branch, in connection with good teaching powers, sense and tact, personal and social qualities, etc., who would fail if tried by other and severer tests. The aim of the superintendent should be to do justice to every candidate.

Let examinations be so conducted that the ignorant and conceited shall have a wholesome dread of them, while the modest and deserving, on the other hand, shall be assured that no injustice will be done them.

The county superintendent must remember, too, that he is to certify that the person to whom he grants his certificate "is qualified to teach" the branches named. He should take into account, also, the conditions under which the teaching is to be done—that there will be both a school to be governed and children to be instructed. Hence he not only may but should inquire into the applicant's knowledge of the principles and methods which should guide in training children, his aptness to teach and his ability to control them. Furthermore, the superintendent should give due weight to any knowledge he has of the applicant's success as a teacher. The man who has repeatedly demonstrated his unfitness to have charge of a school, should not be granted a certificate, however good his scholarship may be.

4. *Grade of Certificates—Physiology and the Elements of the Natural Sciences.* The leading distinction between the two grades of certificates, besides the difference in term, is that the applicant for the first grade certificate must be examined as to his qualifications in the seven branches of

study named in the second grade certificate, and, in addition thereto, in the elements of the natural sciences and in physiology and the laws of health. The natural sciences are, for the purposes of this examination, botany, zoölogy and natural philosophy. In examining upon the seven branches, if any difference is made in the character of the examination between applicants for first grade certificates and those applying for second grade certificates, the difference should relate rather to the extent of the knowledge required. Every teacher, whether he hold a first or a second grade certificate, should have a clear comprehension of the fundamental principles, the rudiments, the primary rules, laws and facts in each branch of study.

It is suggested that persons who have not shown themselves successful teachers should not receive first grade certificates.

5. *Certificates not to be granted without examination.* It is an open and palpable violation of the law for a county superintendent to grant to any one a certificate without examination, either upon his representation or upon his recommendations. It is equally a violation of the law for him to adopt as his own an examination held by another and not within his own control and direction. In all these duties in which a special trust is reposed in the abilities, judgment, skill or learning of the officer himself, his personal services are required. Such a duty, preëminently, is that of examining and licensing teachers, imposed upon the county superintendent by the law.

6. *Renewal of Certificates.* It is wise for the county superintendent to exercise the power the law gives him to renew certificates, when he knows that the teacher is faithful, energetic and successful. The county superintendent may renew certificates issued by his predecessor. It is held that a teacher's certificate can not be *renewed after its expiration*—if renewed at all, it must be done on or before the day it expires. When a certificate has expired without renewal, the instrument is dead and can not be revived, and its effectiveness continued by the endorsement of the county superintendent—a new certificate must be obtained, or the teacher is without a license.

7. *Revocation of a certificate.* Teachers' certificates may be revoked, but only for just cause. In the exercise of this right the greatest care should be taken to avoid injustice. The professional reputation of a teacher should not be prejudiced by the revocation of his certificate, except upon the most clear and positive proof of gross misconduct; but whenever such proof is furnished, the duty of the county superintendent is plain and he must perform it. When the revocation of a certificate becomes clearly necessary, the superintendent should note the fact in his record of certificates granted, and request the teacher to surrender the document. If he refuse to do so, the name of the teacher, date and grade of his certificate, and the fact and date of its revocation (with cause, if deemed expedient), should be published in the county papers, or otherwise. This, in that case, would be necessary for the information and protection of the public. The directors, trustees and treasurer, of the district and township concerned, should also be informed immediately and officially by the superintendent, in writing, of his action, and duly notified and warned that no public funds can lawfully be paid said teacher for services rendered from and after the date of said revocation. The law does not authorize county superintendents to suspend teachers' certificates, nor is the right to do so implied in the power to revoke. They may grant, renew, and, for good cause, revoke certificates; their powers in the premises would then seem to be exhausted.

The rule of law with regard to the way of proceeding in the revocation of a certificate is the same as laid down in regard to the removal of a county superintendent, or the dismissal of a teacher. [**13,** *note*; **147,** *note* (*a*), 2.]

The discretion and responsibility of the county superintendent in this matter are the same as stated in note 2, above.

The revocation should be noted in the record required by **188.** [*District* v. *Thelander*, 32 Minn., 476.]

8. *Re-instatement of Teachers whose Certificates have been revoked.* The law does not prescribe the limits of time within which a teacher, whose certificate has been revoked, may be re-instated in his profession. Each case must,

therefore, be determined by the county superintendent, according to his best judgment and discretion, from the facts and circumstances as he knows or believes them to exist. A teachers license may be revoked for offenses of so grave a character as to render it improper ever to restore him to the school-room. On the other hand, the revocation may be necessitated by malfeasances or delinquencies of a less serious nature, against the recurrence of which the the county superintendent may be well assured. If, for instance, a teacher is deprived of his certificate for acts of intemperance, or even drunkenness, he may so conduct himself thereafter as to convince the superintendent that a thorough and genuine reformation has taken place. The power to revoke certificates is conferred for the sole purpose of summarily ejecting from the school-rooms of the state, such persons as may become clearly unfit for the responsible trusts committed to teachers of youth, and should never be exercised in any other spirit. As soon, therefore, as the cause is removed, and the dishonored teacher gives proof of having again become worthy of trust, the spirit of the law as well as of charity, would warrant his re-admission into the profession.

9. *The Certificate a Commission—Form of the Certificate.* The certificate is in the nature of a commission and must be attacked directly, if at all. Whether it was issued upon due examination or not is a question which cannot be raised to defeat a teacher in a suit brought to recover his wages. The word "may," in the sentence of the law, in which it is provided that a teacher's certificate may be drawn in a given form, was not intended to be interpreted "must." [*District* v. *Sterricker*, 86 Ill., 595.]

188. Record. § 4. Each county superintendent shall also keep a record, in a book provided for that purpose, of all teachers to whom he grants certificates. Said record shall show the date and grade of each certificate and all renewals granted, and the name, age and nativity of each teacher; and shall give the names of male and female teachers separately. Said record may be as follows, viz:

Name.	Age.	Nativity.	Date	Grade.	Experience.	Graduated
Chas. Thompson.	25	Illinois.	Mar. 1, 1888.	1	Has taught 5 yrs.	State Nor. University.

Record of Certificates. The record here required is of much importance, and may prove of inestimable value for future reference. County superintendents are enjoined to a faithful performance of this duty, and to see that the record is kept in a well bound book, properly ruled and headed for the purpose. The form given in this act is very simple and it will require but very little time to make the necessary entries. To insure accuracy a proper memorandum should be made immediately after the results of each examination are determined.

In the record should be noted any revocation [**187,** *note* 9], and all renewals.

189. Teacher must hold a certificate. § 5. No teacher shall be entitled to any portion of the common school or township fund, or other public fund, or be employed to teach any school under the control of any board of directors of any school district in this state, who shall not at the time of his employment have a certificate of qualification obtained under the provisions of this act, entitling him to teach during the entire term of his contract.

1. *Teacher must have a Certificate for whole Term of Contract.* When a person makes a contract, he must have a certificate good for the full term of the contract, or neither he nor the school board will be bound by the contract; and the contract is not made binding by the fact that the teacher obtains such a certificate before he begins school. [*Stevenson* v. *Directors*, 87 Ill., 285; *Davis* v. *Directors*, 92 Ill., 293; *Butler* v. *Haines*, 79 Ind., 575.]

No teacher can be required to procure more than one certificate in order to teach the same school. In case a district lies partly in two counties the teacher must obtain a certificate from the superintendent of the county in which the school house is situated, He cannot be required to have certificates from both superintendents.

2. *A Teacher without a Certificate must not be paid.* The declaration of the law is emphatic—no teacher without a certificate may be paid for services, and the full intent of the law has been sustained by the courts repeatedly.

As elsewhere stated, all funds collected from taxes levied by school directors, must be held subject to, and paid out

upon the orders of the directors of the district. But the orders on such tax funds must be for the payment of debts legally contracted, and no others. Hence a board of directors cannot use any portion of such special district taxes to pay a teacher who taught without having the necessary certificate of qualifications. Directors are empowered to levy taxes for the sole purpose of supporting or extending the terms of such schools, and such only, as the law contemplates. But the law does not contemplate or in any manner recognize, schools taught by teachers who have no certificates, and no public or special tax funds can, therefore, be used to pay any of the expenses of schools so taught. Any other interpretation of the statute would be absurd; because, if the directors may ignore the provision in respect to certificates, they may ignore every other provision of the act, and levy taxes to pay the teachers of writing schools, or singing schools, or any other description of schools, however unlike they may be to the public schools provided for in the statute. [*Casey* v. *Baldridge*, 15 Ill., 65; *Wells* v. *People*, 71 Ill., 532.]

Directors who pay a teacher who has no certificate are personally liable for the loss of school funds through their misuse of them. The school taught by a teacher without a certificate is not a legal school; and if, on that account, the district loses its share of funds distributed by the trustees [**55,** *note* (*c*)], the directors are further liable personally for such loss. They are also liable to a fine for a failure to perform their duty under the law. [**284.**] And for diversion of funds, [Criminal Code, Chap. 38, § 208, Rev. Stat. Ill.; *District* v. *Thelander*, 31 Wis., 333.]

If directors employ a teacher who has not a certificate, as required by law, and the treasurer knows the fact, even if the directors certify to his schedule, the treasurer cannot pay it. It would be a case of open violation of a positive requirement of the law, and should not be overlooked. Known and palpable fraud always vitiates.

Any interested taxpayer may enjoin the payment of a teacher who has no certificate, or may stop the payment of a judgment in favor of such teacher, if obtained by col-

lusion with the directors. [*Barr* v. *Deniston*, 19 N. H., 170; *Noble* v. *Directors*, 117 Ill., 30.]

If a teacher teaches for a while without a certificate and then gets one, the directors can not pay for the time taught without a certificate. Neither can they pay him indirectly for such time by hiring him over at an advance in salary sufficient to make up for the time taught before he got a certificate. Public officers must not do indirectly what the law forbids them to do directly. [*Wells* v. *People*, 71 Ill., 532.]

3. *Substitutes and Assistants must have Certificates.* The teacher employed as a substitute for however short a time, must have a certificate of qualification, make a schedule, and comply with all other requirements of the law, or the public funds can not be used in payment of the temporary services so rendered. One teacher cannot receive wages on the certificate of another, or in the name of another teacher.

All assistant teachers, special teachers of writing, etc., included, in the public schools, must have certificates of qualification from the county superintendent—there is no exception to the emphatic requirements of the law in respect to certificates.

This opinion is grounded upon the plain object of the legislature in requiring teachers to posses certificates; which can be none other than to secure the employment of teachers of approved character and ability—a consideration of quite as much moment in the case of assistant teachers, as any other.

4. *Superintendents of City and Village Schools.* It is held that the superintendent of city and village schools belongs to the teaching force, and should, therefore, have a certificate of qualification in order that he may draw his pay.

5. *Restraining the Board and the Teacher.* When the directors persist, in violation of law, in retaining a teacher who does not hold a certificate, any taxpayer or patron of the school would be entitled to an injunction to restrain the teacher or the board from continuing the school. The county superintendent cannot take out an injunction in

such a case. [*Perkins* v. *Wolf*, 17 Ia., 228; *Barr* v. *Deniston*, 19 N. H., 170.]

The county superintendent has discharged his whole duty in the premises when he has notified the directors and the teacher that they are violating the law and of the consequences thereof; and has directed the trustees and the treasurer to pay no more orders drawn from such teacher's salary and to exclude the district from the distribution of funds the next year, unless it shall have a school taught by a teacher holding a valid certificate for not less than one hundred and ten days during the year.

When the schools of any districts are operated under a special law, which does not give the school board of such district, in unmistakable terms, power to examine its teachers and grant them certificates, the board may lawfully employ such teachers only as hold certificates obtained under the general school law. [*Board of Education* v. *Arnold*, 112 Ill., 11.]

190. Branches to be taught. § 6. Every school established under the provisions of this act shall be for instruction in the branches of education prescribed in the qualifications for teachers, and in such other branches, including vocal music and drawing, as the directors, or the voters, of the district at the annual election of directors, may prescribe.

Province of the Public Schools. Every public school in the state shall be for the purpose of instruction in the branches of education prescribed in the qualifications for teachers. But the directors, if they think it expedient, may cause other branches to be taught, including vocal music and the elements of drawing. It is also competent for the voters of the district, at the annual election of directors, to instruct the directors to introduce other branches as aforesaid; and when a majority of the votes cast at such annual election shall be for such additional branches, the directors must regard and obey such vote.

If the question is on the introduction of drawing, for example, the ballots shall read, "For Drawing," or "Against Drawing," and in the same manner for any other proposed additional branch. But neither the directors nor voters

can exclude any branch prescribed by law; nor can the voters exclude any branch added by the directors, nor the directors any branch added by the voters. If any added branch is withdrawn, it must be by the same authority that introduced it. Directors are not required to have all the branches prescribed by law taught at the same time. This will rarely be expedient. But every branch so prescribed must be included in the full course of studies of every public school, so that each pupil will have an opportunity to pursue all of said branches during his common school course. By this provision all necessary latitude is given for the introduction into our common schools of such additional or higher branches, whether of language or mathematics, etc., as may, in given circumstances, be deemed advisable. In like manner, under the wise and liberal provisions of this section, high schools may be established in connection with, and as a part of our system of public schools, with a course of instruction as extended and varied as the best interests of the community may require. The schools must be English schools to the extent that the English language must be the medium of communication in them. [*Powell* v. *Board of Education*, 97 Ill., 375; *note* p. 9. **146**, *note* (*f*), 1 and 2.]

191. Number of examinations—Places—Notice. § 7. It shall be the duty of the county superintendents to hold meetings, at least quarterly, and oftener if necessary, for the examination of teachers, on such days, and in such places in the respective counties, as will, in their opinion, accommodate the greatest number of persons desiring such examination. Notice of such meeting shall be published a sufficient length of time, in at least one newspaper of general circulation, the expense of such publication to be paid out of the school fund.

Number of Examinations—Places—Notices—Public and Private. By this section, it is made the duty of county superintendents to hold at least four public examinations annually, for teachers desiring certificates, on such days and at such different points in their respective counties as will, in their estimation, best accommodate those concerned. It is not meant by the term "quarterly," that the four public examinations should be held successively at the pre-

cise interval of three months. The intention of the law is simply to require that there shall not be less than four public examinations in each year; the precise time of each being left to the discretion of the county superintendent, having in view the convenience and accommodation of the largest number of teachers. It is plain, from the language of the law, that in all large counties, more than one place should be designated for the holding of such examinations; they are to be held "on such days and at such places in their respective counties as will, etc."

The four examinations required by law must therefore be strictly public—open to all who may choose to attend. It is, however, to be distinctly understood that the number of public examinations that may be held is not limited to four; that is merely the minimum number required by law. Superintendents may hold as many more public examinations as they choose; they may hold them monthly, or even oftener, if deemed expedient; or they may insist that all examinations held by them shall be open and public, if in their estimation, the best interests of education would thereby be promoted.

Special cases or emergencies may occur when private examinations should be granted; but all examinations should be public, unless very good reasons exist in favor of a contrary course. Public examinations are in almost all cases more thorough, impartial and satisfactory than private ones.

Notices of all public examinations must be given for a sufficient length of time, by publication in at least one newspaper of general circulation in the county. The expense of such publication, in whatever form made, is to be paid out of the school fund.

192. Fee. § 8. The county superintendent shall in all cases require the payment of a fee of one dollar from every applicant for examination for a teacher's certificate, and for each renewal of such a certificate he shall require the payment of a fee of one dollar.

Fees—Accounts. By the payment of the fee of one dollar, the applicant for a certificate becomes entitled to a fair opportunity to pass the prescribed examination at the

usual time. Having had that opportunity, the right gained by the payment of the fee has been exhausted; and if the applicant has failed to get a certificate, he must pay a second fee, if he wishes for a second examination. If, however, the county superintendent wishes to examine further in certain of the branches an applicant who has passed well in the others, he need not charge a second fee for such continuance of the examination.

193. Moneys expended. § 9. All moneys so received from applicants for teachers' certificates, and from the registration fees hereinafter provided for, the said county superintendent shall transmit monthly to the county treasurer, to be by him held and designated as the institute fund, and with such fund the county superintendent shall give the treasurer a list of the names of the persons paying such fees. Said fund shall be paid out by the county treasurer only upon the order of the county superintendent and only to defray the expenses of the teachers' institutes, which the county superintendent is, by the following sections, authorized to hold. The county superintendent shall take vouchers for all payments made out of the institute fund, and he shall render an account of such disbursements, with vouchers for the same, to the county board at their regular meeting in September annually.*

All fees, with the list of names of the persons from whom they have been received, must be deposited with the county treasurer monthly, and may be used by the county superintendent for one purpose only—to defray the expenses of the teachers' institute which he is required by this section of the law to hold. He should make his deposits with the county treasurer regularly the first day of each month. A statement of the receipts and expenditures with vouchers must be made by the county superintendent as a part of his annual report to the county board. [**22,** *note* 4, and **230,** *note.*]

194. Institute. § 10. The county superintendent shall hold, annually, a teachers' institute, continuing in session not less than five days, for the instruction of teachers and those who may desire to teach, and, with the concurrence of the state superintendent of public instruction, procure such assistance as may be necessary to conduct said institute at such time as the schools of the county are generally closed;

*Forms Nos. 41-44.

Provided, that two or more adjoining counties may hold an institute together. At every such institute instruction shall be free to such as hold certificates good in the county (or counties where two or more join to hold an institute) in which the institute is held; but the county superintendent shall require all others attending to pay him a registration fee of one dollar, except those who have paid him an examination fee as required by section 8 of this article, and failed to receive a certificate.

1. *The Institute.* The institute required by this section must be a meeting of at least five days' continuance, held "at such time as the schools in the county are generally closed." A shorter meeting does not satisfy the law. Two or three teachers' meetings held at different places in the county for one or two days each may not be substituted for the institute.

The legitimate objects of the county teachers' institute are:

1st. To impart instruction

(a) in subjects to be taught,

(b) in principles and methods of teaching,

and of these, (b) is the more important.

2d. To unify, in some measure, the work done in the schools of the county.

3d. To promote a professional *esprit de corps* by bringing the less experienced into contact with maturer minds, and so leading them to higher aspirations.

4th. To instruct the community upon the aims and scope of the school.

It may happen that the great body of the teachers of a county are reasonably well prepared in the knowledge of the subjects to be taught. For such the most valuable institute training will be in the principles and methods of education. But in other cases the literary preparation of teachers is less perfect, and drill in academic work is really necessary. This drill, however, may be so conducted, academic instruction may be so given, as to illustrate the best methods and to exhibit the truest principles of teaching.

2. *Teachers for the Institute to be employed with the Concurrence of State Superintendent.* The law requires the county superintendent to procure, "with the concurrence of

the state superintendent of public instruction," such teachers as he may need for his institute. The state superintendent will, on application, license in writing as institute conductors and instructors such persons as he knows to be well qualified therefor. County superintendents may employ persons thus approved by written license without correspondence with the state superintendent. If they wish to employ persons who have not been already licensed, they should first consult with the state superintendent.

The county superintendent may himself, of course, act as a conductor or an instructor in his institute. For such services he receives his *per diem* in the usual way; but he does not draw any compensation from the institute fund.

3. *Who may attend Free of Charge—Registration Fees.* The expenses of the institute are chiefly paid from the examination fees; so those who have paid such fees are entitled to attend the institute free of charge. This includes all who have certificates in force, and those, who, having paid a fee for examination since the last institute, failed to receive a certificate. All others attending the institute must contribute their part towards its expenses by payment of a registration fee of one dollar.

If the institute is held for a longer time than the fund will pay for, then a part of the term—not less than five days—should be designated in advance as the time to be paid for by the fund, and during this part of the term it should be well understood that instruction is free to all entitled by the payments they have made to attend free.

195. Teachers to have time to attend institutes. § 11. The time, not exceeding three days in any one term, or five days in any one school year, during term time, actually spent by a teacher of any public school in this state in attendance upon a teachers' institute, held under the direction of the county superintendent of schools, shall be considered time lawfully expended by such teacher in the service of the district where such teacher is employed, and no deduction of wages shall be made for such absences. And it shall be the duty of the school officers and boards of education to allow teachers to close their schools for such attendance upon such institute.

1. *No Loss of Time—Certificate of Attendance.* It is the manifest intention of the law that any teacher of a public

school may take, without loss of pay, not more than three school days during one school term, nor more than five school days in one school year to attend a teachers' institute, if one be held by the county superintendent of his county while his school is in session.

The district must pay for school days so taken, and they will count to make up the one hundred and ten days which, by **146,** *fifth*, it must have taught each year.

The county superintendent should give the teacher attending the institute a certificate showing the days of such attendance, which certificate the teacher should return to the school board with his schedule. Such short meetings may be profitably used as follows: Let the county superintendent, from his examinations of the schools, have in his mind a clear idea of the most serious defects exhibited in them, both in discipline and instruction. Let methods be suggested for correcting these defects. In other words the short meetings should be made as useful practically as possible in their effect upon the schools.

2. Any meeting of teachers held by the county superintendent, is an institute within the meaning of the above act. But the expenses of meetings of less than five days duration may not be paid for out of the institute fund.

196. Teacher to care for school property—To furnish schedules. § 12. It shall be the duty of every teacher employed in the public schools of the state to see that the school property of the district, placed under his care and control, is not unnecessarily damaged or destroyed. And no teacher shall be paid any part of the school funds, unless he shall have kept and furnished schedules (when required by law) as hereinafter directed, and shall also have satisfactorily accounted for all books, apparatus and other property belonging to the district which he may have taken in charge.

The Teacher's Responsibility for School Property. A teacher, while in charge of a school, has usually, for the time being, charge of the school premises and property. It is his duty to use due diligence to prevent any unreasonable injury or waste of them, and this is the extent of his responsibility in this regard.

197. Registers. § 13. Teachers shall keep correct daily registers of their schools, which shall exhibit the

name, age, and attendance of each pupil, the day of the week, the month and the year. Said registers shall be, as nearly as may be, in the following form, the absence of each scholar being signified by a mark, the presence by a blank, viz:

Register of a common school kept by A. B., at....., in district No. ....., in township No....., range....., of the.....principal meridian, in the county of....., in the State of Illinois.

Names and Ages of Scholars Attending School.		1888. Monday, January 15.	1888. Tuesday, January 16.	1888. Wednesday, January 17.	1888. Thursday, January 18.	1888. Friday, January 19.	18-8. Monday, January 23.	1888. Tuesday, January 24.	1888. Wednesday, January 25.	1888. Thursday, January 26.	1888. Friday, January 27.	1888. Monday, January 30.	1888. Tuesday, January 31.	1888. Wednesday, January 31.	1888. Thursday, February 1.	1888. Friday, February 2.	1888. Monday, February 5.	1888. Tuesday, February 6.	1888. Wednesday, February 7.	1888. Thursday, February 8.	1888. Friday, February 9.	Total No. of Days each Scholar.
Names.	Ages.																					
John Smith	10	..	1	..	..	1	..	..	1	..	..	1	..	..	..	..	..	..	..	..	1	15
Isaac Meisler	13	..	..	1	..	..	1	1	1	..	..	..	1	..	1	..	..	1	1	..	..	11
Sarah Danforth	16	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	20
Mary Newman	18	..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	1	18
Grand total No. of days		..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	64

	Males.	Females.	Total.
Number of scholars	2	2	4

Average daily attendance.....3.2

Said register shall be furnished to the teachers by the school directors, and each teacher shall, at the end of his term of school, return his register to the clerk of the school board of the district. And no teacher shall be paid any part of the public funds unless he shall have accurately kept and returned the register as aforesaid.

Registers. The register should be a well bound book and should be kept with care from the beginning to the end of each term. It must contain the names of all the pupils attending the school. Thus kept, it will be the source from which to get, for the annual report, statistics of enrollment, months of school, months taught and days' attendance.

The clerk of the board of directors should see to it that the register has been properly kept and returned to him at the close of the term.

198. Schedules. § 14. In all districts controlled by a board of directors, teachers shall make schedules of the names of all scholars under twenty-one (21) years of age attending school, in the form prescribed by this act; and when scholars reside in two (2) or more districts, townships or counties, separate schedules shall be kept for each district, township or county. Boards of education may require teachers under their control to make schedules as herein directed, or to make statements* certifying the number of days' attendance for each month, as shown by their registers, which statements shall be certified to by the board of education, and be subject to the same requirements concerning payment of teacher's salary and filing as those made by this act concerning schedules. The schedules to be made and returned by the teacher shall be, as near as circumstances will permit, in the following form, viz.:

Schedule of a common school kept by....., at ....., in district No. ....., township No....., range No....., of the.....principal meridian, in the county of ..... in the State of Illinois. Names and ages of scholars residing in district No....., in township No..... north, range.... west, ... county, who have attended in my school during the time beginning the.....day of....., 18...., and ending the.....day of ....., 18...., during which time the school was in session.....school days.

Names.	Ages.	Days attended.
John Smith	10	15
Isaac Meisler	13	11
Sarah Danforth	16	20
Mary Newman	18	18
Grand total number of days' attendance		64

	Males.	Females.	Total.
Number of scholars	2	2	4
Average daily attendance			3.2

And said teacher shall add up the whole number of days' attendance of each scholar, and make out the grand total number of days' attendance. He shall also note the whole number of scholars, giving the males and females separately; the average daily attendance; and shall set the age

*Form No. 47.

of each pupil opposite the name of such pupil, as in form above prescribed, and shall attach thereto his certificate, which shall be in the following form, viz.:

I certify that the foregoing schedule of scholars attending my school as therein named, and residing as specified in said schedule, to the best of my knowledge and belief, is correct.

A.....B....., Teacher.

1. *Schedules—Statements.* Formerly the school funds were distributed to the districts in part upon the days' attendance, as shown by schedules filed with the township treasurer, and the law did not require registers to be kept. The schedules were then documents of great importance. Now their only use is to serve as a monthly report of attendance by the teacher to the school board; and, when filed with the treasurer, to furnish official evidence to the trustees as to whether or not the district has had a legal school for the required term, and, hence, is or is not entitled to a share of funds distributed by them. But the law still makes filling out and certifying schedules or statements by the teacher, and approving them by the school board, conditions precedent to drawing the teacher's order for his pay; so it becomes teachers to supply themselves with the requisite blanks and fill them out and deliver them as the law prescribes.

2. *Separate Schedules—Statements.* If the district is a union district with pupils from both townships, the teacher must make separate schedules of the pupils from each part of the district. So, too, there must be separate schedules if the district lies in two counties and there are pupils from each part.

There must be a separate schedule for pupils who attend the school on transfers. [**155,** *note* 2.]

Pupils paying tuition fees should not be put upon any schedule.

It is important that the directors who certify to the schedule should fill all the blanks in the certificate. If not filled out, the trustees should not receive it as evidence of a legal school.

3. *Schedule or Statement left incomplete.* When a teacher dies before completing his schedule, or when, from any other unavoidable reason, a schedule is not and can not be

completed, or certified by the teacher, the directors may return it to the township treasurer, after correcting such errors as they may be cognizant of, with an affidavit or certificate, setting forth the reasons why it is not completed and certified by the teacher, and any other material facts in regard to its unfinished condition. Said affidavit or statement of the directors should be filed by the treasurer with said schedule, and will be a sufficient warrant for the trustees to accept the schedule and make apportionment thereon.

4. *Schedules or Statements—One for a School with two or more Teachers.* The two following sections deal more in detail with the schedules. It is held that the requirement of the law, that every teacher shall keep a schedule, is fully satisfied if, in a school in which there are several teachers, there is made up a complete schedule for the whole. (If such a district is in two or more townships or counties, there must be *separate* schedules, as required by this section.) One schedule for the whole school serves every purpose for which schedules are kept as well as several; and if kept by one teacher for all, it is really the schedule of all; "*Qui facit per alium, facit per se.*" The same rule will govern with regard to special teachers of music, drawing, etc.

One schedule could be made sufficient for such a school, also, by inserting the names of all the teachers in the heading, and having each one sign it.

199. Schedule delivered to directors. § 15. When the teacher shall have completed his or her schedule or schedules as provided in the foregoing section, he or she shall deliver it to some one of the directors who shall, if requested, give the teacher a receipt* for the same. And it shall be the duty of the said director, in connection with at least one other director of the board, to carefully examine such schedule or schedules, and after correcting all errors, if any, if they shall find such schedule to have been kept according to law, they shall certify to the same as near as practicable, in the following form, viz:

* Form No. 48.

State of Illinois, } ss.
.....County, }

We, the undersigned directors of district No....., township No....., range No....., in the county aforesaid, certify that we have carefully examined the foregoing schedule and find the same to be correct, and that the school was conducted according to law; that the teacher is paid as per contract..... dollars per.....; that the sum of.....dollars is now due.....for services for the month ending.....; that said teacher has a legal certificate of .....grade, and that the property of said district in charge of such teacher has been satisfactorily accounted for.

Witness our hands this.....day of.....A. D.....

.....
.....
.....
} *Directors.*

200. Teachers' wages. § 16. Teachers' wages are hereby declared due and payable monthly, and upon certifying to the schedule or statement, as hereinbefore provided for, the directors, or board of education, may at once make out and deliver to the teacher an order upon the township treasurer for the amount named in the schedule or statement,* which order shall state the rate at which the teacher is paid according to his contract, the limits of the time for which the order pays, and that the directors have duly certified a schedule covering the time specified in such order: *Provided*, that in case said order shall be presented to the township treasurer and not paid for want of funds, said treasurer shall certify on the back of such order the date of presentation as required by section 18 of article 4 of this act, and thereafter such order shall bear interest at the rate of eight per cent. per annum until paid, or until the said treasurer shall notify the clerk of the board of directors issuing such order that he has funds with which to pay the same.

1. *Teachers' Wages Payable Monthly.* The teacher is entitled to his wages monthly, provided only he has made out his schedule or statement in proper form. The duty of the directors upon receiving a schedule is, first, to give the teacher a receipt for it, and then to examine it promptly and, upon finding it correct, to certify to it, and then to give the teacher an order on the treasurer for the amount according to contract, for the time covered by the schedule.

2. *The Teacher's Order.* The teacher's order for wages differs from orders for other current expenses in three things: It must state (1) at what rate the teacher is paid; (2) for what time it pays, and (3) that the schedule for the time has been duly certified. The treasurer needs to know each of these facts, and he should insist upon the orders being in this form.

Forms Nos. 49 and 50.

3. *Failure to deliver Schedules.* If a teacher fails to deliver to the directors by July seventh any schedule for time taught before July first, the directors are forbidden by the statute to give him an order for such time. The reason for this is that the directors must file all schedules with the township treasurer on or before July seventh each year, as provided in **146.** See **146,** *Eleventh* and *Fourteenth.*

4. *Interest on Teachers' Orders* See 116 and *note.*

201. School month—Holidays. § 17. The school month shall be the same as the calendar month; but teachers shall not be required to teach upon Saturdays, Sundays, legal holidays, these being New Year's, Fourth of July, Christmas, and thanksgiving and fast days appointed by the national or state authority; nor shall they be required to make up the time lost by closing school upon such days or upon such special holidays as may be granted the schools by the board of directors.

1. *School Month.* The school month is a calendar month. A calendar month is the time beginning with any day of any month and ending with the day preceding the day of the same number in the next month. A month as named, March, etc., is a calendar month; so, also, are March 13—April 12, August 26—September 25, both days included, calendar months. Confusion sometimes arises from the fact that the months are not all of the same length, but by going back to the starting-point it may be avoided. For instance, if the term of five months begins October 31, the first month ends November 30. The second month begins December 1, and, it would seem, should end with December 31; but two months from October 31 end December 30. The fourth month of the term would end with the last day of February, and the term would end March 30.

The fact that the law declares that the school month shall be the calendar month makes a contract "by the month" definite, when the term month is not defined therein. But school officers and teachers may agree that the month shall be four weeks, and such agreement binds the parties thereto. A contract may be made "by the week" or "by the day."

2. *Vacations.* The effect of a vacation of one or two weeks is to push forward the end of the month and the end of the whole term under the contract one or two weeks.

For instance, if the school month began December 15 and there was no vacation at Christmas, the month ended Jan. 14; but a vacation of two weeks would have made the month end January 28. So, too, a term of nine months, begun September 5, would end June 4, if there were no vacation; but a vacation of two weeks at any time during the term would carry for ward the end to June 18.

3. *"Lost" Time.* "Lost" time, if made up, must be made up by teaching "school" days, i. e., days which are not Saturdays, Sundays, or school holidays. [**146,** *note* (*b*), 1.] Here again confusion arises from the difference in the length of the month. All difficulties may be obviated by making up the time at the end of the term. It is for the directors to determine whether time which the teacher has lost shall be made up or not.

4. *Pay for a Fraction of a Calendar Month.* The number of school days in a calendar month varies from twenty to twenty-three, and the amount due for a given fraction of a month may vary in the same proportion. For example, if a teacher is paid forty-two dollars a month for a term of five months in which there are one hundred and five school days, the rate is evidently two dollars a day. But if we take one month of the term which has twenty school days, the pay in that month would be $2.10 a day; but in a month with twenty-three school days, the pay would be but $1.82 a day. It will be fair always to calculate the pay for a day by dividing the amount paid for the whole term by the number of days in the term. Then by multiplying this amount by the number of days taught in the part of a month, the pay for such part is found.

This matter has been considered, not because it is thought to be of much importance, but because it has been in many instances the source of irritation and petty bickering.

5. *Holidays.* Teachers are not required to teach upon the holidays named, thanksgiving and fast days appointed by national or state authority, or special holidays granted by school boards. Teachers are not entitled to take days in lieu of holidays occuring during a vacation, as Christmas and New Year's during a vacation of two weeks at that time.

Washington's Birthday, Decoration Day and Arbor Day have not been made school holidays by law; so it is for school boards to say whether not school shall be closed on such days.

6. *School closed because of an Epidemic, etc.* If the school board closes the school during the term because of the prevalence of a contagious disease, the teacher does not lose his pay, unless he consents to lose it, provided he holds himself in readiness to teach, subject to the order of the board. There may be a condition of things which makes it eminently expedient and prudent to stop the schools, but no rule of justice will entitle the district to visit its misfortune upon the teacher who had no agency in bringing it about. [*Dewey* v. *District*, 43 Mich., 480.]

ARTICLE 8.

REVENUE—TAXATION.

§ 1. Power to tax: limitations.
§ 2. Certificate of tax levy; time of return; form.
§ 3. Return of certificate to county clerk; map filed.
§ 4. District in two counties.
§ 5. Taxes computed by county clerk
§ 6. Assessors to designate the district.
§ 7. County clerk to copy numbers of districts; tax to be uniform.
§ 8. Certificate of amount due each district.
§ 9. Collector to pay township treasurer.
§ 10. Districts lying in two townships.
§ 11. Penalty for failure to pay.
§ 12. Blank books and notices.
§ 13. Failure to file certificate does not vitiate the assessment.

202. Power to tax—Limit. SECTION 1. For the purpose of establishing and supporting free schools, for not less than five nor more than nine months in each year, and defraying all the expenses of the same of every description; for the purpose of repairing and improving school houses, of procuring furniture, fuel, libraries and apparatus, and for all other necessary incidental expenses in each district, village or city, anything in any special charter to the contrary notwithstanding, the directors of such district, and the authorities of such village or city shall be authorized to levy a tax annually upon all the taxable property of the district, village or city, not to exceed two per cent. for educational, and three per cent. for building purposes (except to pay indebtedness contracted previous to the passage of this act,) the valuation to be ascertained by the last assessment for state and county taxes.

1. *Length of Term of School.* The term of the school must be, according to **146,** *fifth,* not less than one hundred and ten days actually taught and more if practicable, not exceeding nine months except by vote of the people of the district.

2. *Taxation in Districts under Special Laws.* The phrase "anything in any special charter to the contrary notwithstanding" was put into the law by amendment in 1879, in order to relieve certain school districts under special laws which put lower limits upon taxation for school purposes. The amendment was held to be sufficient by Hon. C. S. Zane, circuit judge of Sangamon county.

3. *Must be for School Purposes.* The power to levy taxes here given is general and no attempt is made to make a complete enumeration of the objects for which taxes may be levied; but, on the other hand, it must be remembered that the powers of school boards are strictly limited to such as are necessary to carry out the provisions of the school law. [*People* v. *Dupuyt,* 71 Ill., 651; *People* v. *Trustees,* 78 Ill., 136.]

No power is given to raise money with which to defray the expenses of school picnics, or to buy prizes or rewards; and, hence, directors have no power to use school moneys for such purposes. [*Law* v. *People,* 87 Ill., 385.]

The school funds of every district must be kept and considered as a unit, for the purposes contemplated by law. The school law knows no particular class, nationality, religion or sect. The taxes paid by persons of a particular sect, class or nationality, can not be withdrawn from the common fund to pay the teacher of a separate school established for their own special benefit. Such a proceeding would be at war with the fundamental idea of our system of common schools.

4. *Vote not needed for Levy for Educational Purposes.* No vote of the people is needed to authorize the directors to levy a tax for educational purposes; neither does a vote of the people in this regard, if one be had, change or limit in any way the power of the directors, except as to extending the school beyond nine months; for it is not one

of the questions upon which the law provides for a vote. [*School District* v. *Harvey*, 56 Vt., 556.]

5. *Vote needed for Levy for Building Purposes.* But there must be an antecedent vote to build, to purchase or to move a school house and to choose or locate a school house in order to authorize and make legal a tax levy for such purposes. [*Directors* v. *Fogleman*, 76 Ill., 189.] There having been a vote to build a school house or to purchase one, or to locate or purchase a site, etc. [**151,** *note* 5.], the board may proceed, without any further vote, to levy a tax for these purposes, not exceeding the limit named above.

6. *Money must be used for Purpose for which it was raised.* Moneys raised for a special purpose, as for building a school house, may not be devoted to any other purpose; so, too, funds obtained for the support of schools and defraying the expenses of the same, may not be paid out for building purposes. [*Pennington* v. *Coe*, 57 Ill., 118.]

7. *Surplus, how used.* If there be a clearly ascertained surplus in any special fund, as there may be in a building fund if the house has cost less than the amount raised, the school board can turn the surplus into the general fund.

See **147,** *seventh*, note (*l*).

8. *Limitation.* The assessment is as made by the assessor. [*People* v. *Hamill*, 125 Ill., 600.]

203. Levy. § 2. The directors of each district shall ascertain, as near as practicable, annually, how much money must be raised by special tax for school purposes during the ensuing year, which amount shall be certified and returned to the township treasurer on or before the first Tuesday in August, annually. The certificate of the directors may be in the following form, viz.:

We hereby certify that we require the sum of.....dollars, to be levied as a special tax for school purposes, and.....dollars for building purposes, on the taxable property of our district, for the year A. D.....
Given under our hand this.....day of....., A. D.....

A. B., C. D., E. F. } Directors district No....., township No....., range No....., county of ....., State of Illinois.

1. *The Tax Levy.* It will be seen that the form does not require a levy of specific amounts for each purpose for which taxes may be levied. But if a part of the amount to be raised is for building purposes, and the whole levy

is for more than two per cent., it is necessary to make a division in the levy so that it will show so much for educational and so much for building purposes. The money to pay the interest and the principal of bonds issued for building purposes may be raised under the authority to levy three per cent. for building purposes.

2. *Certificate of Levy Essential.* There must be a certificate of levy to authorize a tax. In a sense, such certificates are jurisdictional, and any tax extended for school purposes, when no such certificate has been returned by the directors as required by this section of the statute, is without authority of law and null and void. [*Weber* v. *O. and M. R'y Co.*, 108 Ill., 451.]

3. *Amount of Levy.* The power given for taxation is ample to produce all the money needed for school purposes in addition to the income of school funds and the state tax in all but a very few of the school districts of the state, and the manifest intention of the law is that the current business of the districts shall be done on a cash basis. Hence, when directors are making their levy, they should first ascertain what their unappropriated resources are and then make the levy large enough to pay all expenses, until February of the second year after the levy.

204. Return of levy. § 3. It shall be the duty of the township treasurer to return the certificate mentioned in the foregoing section to the county clerk, on or before the second Monday of August, and whenever the boundaries of the districts of the township shall have been changed, the township treasurer shall return to the county clerk, with the certificates, a map of the township, showing such changes, and certified as required by the provisions of this act.

Maps, etc. It is essential that the county clerk have correct maps of school districts in order that he may mark the district opposite each tract of land upon the collector's book and so inform the collector to what district the tax funds belong. If all maps of changes made have already been filed as required by **86**, then the treasurer need not send in a new map with the certificates of levy; but if he has neglected his duty in this regard, he must not fail to send in an accurate map with them.

205. District in two or more counties. § 4. When a district lies partly in two or more counties, the directors shall determine and certify the amount to be levied on the taxable property lying in each county, and return the same to the township treasurer, who receives the tax money of such district, and who shall return them to the respective county clerks, as hereinbefore provided; *Provided*, that, in order to determine the amount to be levied on the taxable property of that part of the district lying in each county, the directors shall ascertain from the county clerks of the respective counties in which such district lies, the last ascertained equalized value of the taxable property of such district, lying in their respective counties, and then shall ascertain the rate per cent. required, and shall apportion the whole amount to be raised between the several parts of the district so lying in different counties accordingly.

Levy when District is in two Counties. This provision of the law showing how the school tax must be divided between the parts of a district lying in two counties, must be followed implicitly. It is not permissible for directors to divide it upon any other basis.

206. Tax extended on real estate. § 5. According to the amount certified, as aforesaid, the county clerk, when making out the tax books for the collector, shall compute each taxable person's tax, in said district, upon the total amount of taxable property, as equalized by the state board of equalization for that year, lying and being in said district, whether belonging to residents or non-residents, and also each and every tract of land assessed by the assessor, which lies, or the largest part of which lies, in said district. The said county clerk shall cause each person's tax, so computed, to be set upon the tax book to be delivered to the collector for that year, in a separate column, against each tax payer's name or parcel of taxable property, as it appears in said collector's books, to be collected in the same manner and at the same time and by the same persons as state and county taxes are collected.

207. District No. designated in assessment of personal property. § 6. It shall be the duty of assessors, when making assessments of personal property, to designate the number of the school district in which each person so assessed resides; which designation shall be made by writing the number of such district opposite each person's assessment of personal property, in a column provided for that purpose, in the assessment roll returned by the assessor to the county clerk.

Personal Property—Where Taxable under the School Law. While personal property generally follows the residence of the owner, and is there taxable, yet if permanently located elsewhere, it may, under the school law, be taxed where so located; and a party who complains of a school tax, as levied in a certain district, must show that the property was not taxable in such district. [*Mills* v. *Thornton*, 26 Ill., 300; *King* v. *McDrew*, 31 Ill., 418; *First Nat'l B'k of Mendota* v. *Smith*, 65 Ill., 44.]

208. Tax extended on personal property. § 7. It shall be the duty of the county clerk to copy said numbers of school districts, so returned by the assessor, into the collector's book and to extend the school tax on each person's assessment of personal property, according to the rate required by the amount designated by the directors of the school district in which such person resides. The computations of each person's tax and the levy made by the clerk, as aforesaid, shall be final and conclusive: *Provided*, the rate shall be uniform and shall not exceed that required by the amount certified by the board of directors.

Small Excess does not make Levy Void. A small excess in the amount of the tax extended over the amount levied does not make the tax void. [*Thatcher* v. *The People*, 79 Ill., 597.]

209. Certificate of amount due. § 8. The county clerk before delivering the tax book to the collector, shall make out and send by mail, to each township treasurer in the county, a certificate of the amount due each district or fraction of a district in his township, of said tax so levied and placed upon the tax books.

Certificate of Amount due. The certificate of the amount due each district is needed by the township treasurer as a basis for settlement with the collector. He must also settle with the collector for each district, and must get the list of delinquent taxes so that he may have the data for a final settlement with the county treasurer.

210. Collector to pay. § 9. On or before the first day of April next, after the delivery of the tax books containing the computation and levy of the said taxes, or so soon thereafter as the township treasurer shall present the said certificate of the amount of the said tax, and make a demand therefor. the said collector shall pay to said township treasurer the full amount of said tax so certified by

the county clerk, or in case any part thereof remains uncollected, said collector shall, in addition to the amount collected, deliver to said township treasurer a statement of the uncollected taxes for each district of such township, taking of the township treasurer his receipt therefor, which receipt shall be evidence as well in favor of the collector as against the township treasurer. The said treasurer shall enter the amount collected in his books under the proper heads, and pay the same out as provided for by this act.

1. *Collector's Commission—Must pay Money.* The collector is held to pay the "full amount" collected, when he pays the amount less the commissions which the law allows him. [*People* v. *Wiltshire*, 92 Ill., 260; *Board* v. *Cain*, 28 W. Va., 760.]

The collector must pay the treasurer money. [**63,** *note* 1.] But see last part of **149.**

2. *Tax Funds go to Credit of Districts.* The tax funds must be put to the credit of the proper districts as soon as received and held to be paid out as provided in **238.**

211. Funds of union districts. § 10. When a district is composed of parts of two or more townships the directors shall determine and inform the collectors of said townships, and the collector or collectors of the county or counties in which said townships lie, in writing, under their hands as directors, which of the treasurers of the townships, from which their district is formed, shall demand and receive the tax money collected by said collectors as aforesaid.

See **146,** *fourth,* and *note* (*a*).

212. Collector liable. § 11. If any collector shall fail to pay the amount of said tax, or any part thereof, as required by the provisions of section nine (9) of this article, of this act, it shall be competent for the township treasurer, or other authorized person, to proceed against said collector and his securities in an action of debt upon his official bond, in any court of competent jurisdiction. And the said collector so in default shall pay twelve per centum upon the amount due, to be assessed as damages, which shall be included in the judgment rendered against him: *Provided,* no collector shall be liable for such part of said tax as he shall be able to make appear he could not have collected by law, until he has collected or may be able to so collect such amount.

Suit against Collector—Penalty. Suit to recover money from the collector is properly brought upon his bond in the name of the people, and such suit may be brought without first presenting to the collector the county clerk's certificate of the amount due. **[210.]** The penalty may be collected from the collector and his sureties, if sued for, but not unless the certificate has been presented. [*Tappan* v. *The People*, 67 Ill., 339.]

213. Assessors' books. § 12. It is hereby made the duty of the proper officers in preparing blank books and notices for the use of assessors to provide columns and blanks for the use of assessors, so that they may designate the number of the school district, as provided for in section six (6) of this article of this act.

214. Failure to file certificate. § 13. A failure by the directors to file their certificates, or of the township treasurer to return the same to the county clerk in the time required by this act, shall not vitiate the assessment, but the same shall be as legal and valid as if completed in the time required by law.

See § 191, *Chap.* 120, *Rev. Statute of Ill.*, and *Moore v. Fessenbeck*, 88 Ill., p. 422.

ARTICLE 9.

BONDS.

§ 1. Vote necessary to borrow money; limit of sum borrowed.
§ 2. Registry of bonds.
§ 3. Money paid into school treasury of township; cancellation of bonds.
§ 4. Election for borrowing money; form of notice.
§ 5. Judges.
§ 6. Poll book returned; penalty for failure to return poll book.
§ 7. Refunding school district bonds.

215. Issuing bonds. SECTION 1. For the purpose of building school houses or purchasing school sites, or for repairing and improving the same, the directors of any school district, when authorized by a majority of all the votes cast at an election called for that purpose, may borrow money, issuing bonds signed by not less than two members of said board of directors, in sums of not less than one hundred dollars ($100) and bearing interest at a rate not exceeding eight per centum per annum: *Provided*, that the sum borrowed in any one year shall not exceed

five per cent. (including existing indebtedness) of the taxable property of the district, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness.

1. *Borrowing Money limited to Purposes named.* Directors are authorized to borrow money "for the purpose of building school houses, or purchasing school sites, or for repairing and improving the same." This enumeration of purposes for which money may be borrowed is a limitation upon the power of school boards. They cannot involve the districts in debt for any other purpose whatever, unless it be for teachers wages as provided in **200**. For school boards have such powers as are given them by the statute and such others only as are necessary to carry into effect granted powers. [*Clark* v. *Directors*, 78 Ill., 474; *Peers* v. *Board of Education*, 72 Ill., 508.]

2. *A Vote to build and a Vote to borrow must precede Borrowing.* But before directors may exercise this power to borrow money for building a school house (purchasing a house already built is held to be the same as building in *The People* v. *Sisson*, 98 Ill., 335), there must be (1) a vote to build a house, and (2) a vote to borrow money for such purpose. The propositions must be submitted as separate propositions, i. e., so that the people shall vote upon both; but they may be both submitted at the same time. Should it happen, however, that when both were submitted at the same time, the proposition to build failed and the proposition to borrow money carried, the power to borrow could not be exercised, for there would be no existing purpose for which to borrow.

3. *Same in regard to a Site.* So, too, if money is to be borrowed for the purchase of a site, there must be both a legal location of a particular site, or a vote to purchase one, which is the same thing, and a vote to borrow money for such purpose. [*School Directors* v. *Taylor*, 54 Ill., 289; *Board of Education* v. *Taft*, 7 Ill. App. (7 Brad.), 571.]

4. *Vote needed to authorize Enlarging the House—Repairs.* If the improvement which the directors wish to make consists in enlarging the house, this is a question which must be submitted to a vote, for it is closely allied

to building, and it may well be that the people would prefer to rebuild the school house, or to build an additional house, rather than to enlarge the one they have. But if the directors wish to borrow money to make ordinary repairs and improvements to the building and grounds, the only question to be submitted is the question of borrowing money.

5. *Limitations of Indebtedness.* Limiting the amount of indebtedness to five per cent. of the valuation of the taxable property is in accordance with Sec. 12, Art. 9, Const. 1870. [*See page* 11; *People* v: *Hamill,* 125 Ill., 600.] The same section limits the term of the bonds to twenty years. The limitation of taxation for paying off bonds is the same as the limitation of taxation for building purposes in 202.

6. *Bonds—Notes.* Power to borrow money carries with it, at common law, the power to give evidence of the loan —usually carries with it the power to execute promissory notes and simple contracts incident to the loan. The words of the statute "to execute bonds" give further power, i. e., to execute a bond, a paper under seal. Hence, if, pursuant to votes to build and to borrow money therefor, directors, issue notes or time orders bearing interest, such notes or orders are valid obligations of the district. [*Folsom* v. *Directors,* 91 Ill., 402.]

7. *Sinking Fund.* A sinking fund may be created under the provisions of the act of May 28-July 1, 1881. [*Sections* 36-38, *Chap.* 113, *Rev. Stat.*]

216. Registry of bonds. § 2. All bonds authorized to be issued by virtue of the foregoing section before being so issued, negotiated and sold, shall be registered, numbered and countersigned by the school treasurer of the township wherein the school house of such district is, or is to be located. Such register shall be made in a "bond register" book to be kept for that purpose; and in this register shall first be entered the record of the election, authorizing the directors to borrow money, and then a description of the bonds issued by virtue of such authority as to number, date, to whom issued, amount, rate of interest and when due.

Bond Register. The bond register which must be kept by the treasurer should be a durable record. But he need not

get a separate book unless the township is large, and one in which there are likely to be frequent issues of bonds. In almost all townships it will be enough to set aside some pages in the book in which he keeps his accounts with districts, and rule them suitably for a register.

In making up the record of the election at which it was voted to borrow money, he should include a copy of the notice, for that is an essential part of the record.

217. Proceeds of bonds paid to treasurer. § 3. All moneys borrowed under the authority granted by this article of this act, shall be paid into the school treasury of the township wherein the bonds issued therefor are required to be registered; and upon receiving such moneys, the treasurer shall deliver the bond or bonds issued therefor to the parties entitled to receive the same; and shall credit the funds received to the district issuing the bonds. The treasurer of said township shall enter in the said "bond register" the exact amount received for each and every bond issued. And when any such bonds are paid, the said township treasurer shall cancel the same and shall enter in the said "bond register" against the record of such bonds, the words "paid and cancelled the .....day of....., A. D. ....." filling the blanks with the day, month and year corresponding with the date of such payment.

1. *Money to go to Treasurer.* The money received upon bonds must go to the township treasurer, since he is the only lawful depositary of all school funds. [**63**, *note* 1; *Adams* v. *State*, 82 Ill., 132.]

2. *Bonds may not to be sold below Par.* The bonds may not be sold at less than par; and if they are sold below par, the directors are personally liable for the loss. [*Ibid.*]

3. *Bonds may be exchanged for a House.* "The power given by the statute to borrow money for the purpose of building school houses or purchasing school sites, embraces, no doubt, the power to purchase a school site having already a school house thereon." [*People* v. *Sisson*, 98 Ill., 335.] But too much must not be inferred from this last case cited; for a prudent business man would certainly accept the decision of the supreme court of Nebraska to the effect that bonds may be issued for money only,

not bargained away to contractors. [*State* v. *School District*, 16 Neb. 182.]

4. *Bonds may not be taken by Member of Board.* A school director may not take bonds issued by the board of which he is a member. [*Hewett* v. *Board of Education*, 94 Ill., 528; *Directors* v. *Miller*, 54 Ill., 338; *Sec.* 42, *note* (*f*).]

5. *Bonds payable at Office of Treasurer.* In the absence of express statutory authority, school bonds and the interest on them may not be made payable anywhere else than at the township treasury; or, if provision for their payment elsewhere be made, such provision is void. [*People* v. *Tazewell County*, 22 Ill., 147; *City of Pekin* v. *Reynolds*, 31 Ill., 529; *Sherlock* v. *Winnetka*, 68 Ill., 530.]

219. Election on issuing bonds. § 4. Whenever it is desired to hold an election for the purpose of borrowing money, as provided for in this article of this act, the directors of the district in which such election is to be held shall give at least ten days' notice of the holding of such election, by posting notices in at least three of the most public places in such district. Such notices shall specify the place where such election is to be held, the time of opening and closing the polls, and the question or proposition to be voted upon. Which notice may be substantially in the following form, viz:

NOTICE OF ELECTION.

Public notice is hereby given that on the.....day of ....., A. D. ....., an election will be held at.....school district No....., in township No....., range No.....of the principal meridian in..... county, Illinois, for the purpose of voting "For" or "Against" the proposition to issue the bonds of said school district No.....to the amount of..... dollars due (here insert the times of payment, giving the amount falling due each year, if the bonds mature at different dates), which bonds are to bear interest at the rate of.....per cent. per annum, payable.....annually.

The polls of said election will be opened at.....o'clock.....M., and will remain open until....o'clock ....M.

Dated this.....day of....., A. D.....

A. B.)
C. D.) *Directors.*
E. F.)

Form of Proposition to borrow Money—Notices. The directors may ask authority to borrow a certain amount, and in such case the power, if given, would be limited to the amount named. But if the proposition is simply "to borrow money" for the purposes named, then a favorable

vote gives the directors power to borrow up to the limit named in the statute. [*The People* v. *Sisson*, 98 Ill., 335.]

In any case, the notices and the ballots must correspond, and a majority of the ballots cast upon a proposition submitted is necessary to authorize the directors to act.

For instance, if the notice submits the proposition of borrowing three thousand dollars, and ten ballots read "For borrowing three thousand dollars," and fifteen, "For borrowing two thousand dollars," it can not be held that authority has been given to borrow the smaller sum, for that was not the proposition submitted; and yet the fifteen votes were, in effect; against borrowing three thousand dollars, and so the proposition submitted was beaten. If a vote be not taken upon a proper notice, the directors get no power therefrom; and an issue of bonds based upon such a vote would not be a valid claim against the district in whose behalf they were issued. [*Thatcher* v. *People*, 93 Ill., 240; *Thatcher* v. *People*, 98 Ill., 632.]

219. Conduct of election. § 5. At such election two of the directors of such district shall act as judges and one of said directors shall act as clerk. In case either or any of said directors shall fail, from any cause, to be present or to act at such election, at the time of opening the polls thereof, the legal voters assembled shall choose, from their number, persons to act as such two judges and a clerk of said election. The said judges and the said clerk shall take and subscribe the oath required of judges and clerks of an election held for state or county officers, and such oath may be administered in the same manner as is or may be provided by law for administering the oath to judges and clerks at a state or county election. At such election all votes shall be by ballot. In districts which have adopted the provisions of "An act regulating the holding of elections, and declaring the result thereof in cities, villages and incorporated towns in this state," approved June 19, 1885, the said election shall be held under the provision of said act.

220. Return. § 6. Within ten days after every such election the judges shall cause the poll-book to be returned to the township treasurer, who is required to register such bonds, with a certificate thereon showing the result of such election, which poll-book shall be filed and safely kept by the said township treasurer, and shall be evidence of such

election. For a failure to return such poll-book to such treasurer within the time prescribed, the judges of said election shall severally be liable to a penalty of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), to be recovered in a suit in the name of the People of the State of Illinois, before any justice of the peace, and, when collected, shall be added to the township school fund of the township in which said treasurer resides.

221. Refunding bonds. § 7. In all cases where any school district has heretofore issued or may hereafter issue bonds, or other evidences of indebtedness, for money on account of any public school building, or other public improvement, or for any other purposes which are now binding and subsisting legal obligations against said school district, and remaining outstanding, and which are properly authorized by law, the proper authorities of such school district may, upon the surrender of any such bonds or other evidences of indebtedness, or any number thereof, issue in place or in lieu thereof, or to take up the same, to the holders or owners of the same, or to other persons for money with which to take up the same, new bonds or other evidences of indebtedness, in such form, for such amount, upon such time, not exceeding the term of twenty (20) years, and drawing such rate of interest not exceeding eight (8) per centum per annum, as may be determined upon; and such new bonds or other evidences of indebtedness so issued shall show, on their face, that they are issued under this act; *Provided*, that the issue of such new bonds in lieu of such indebtedness shall first be authorized by a vote of the legal voters of such school district voting at an election called and conducted as other elections provided for by this article of this act; *And provided further*, that such bonds or other evidences of indebtedness shall not be issued so as to increase the aggregate indebtedness of such school district beyond five (5) per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes, prior to the issuing of such bonds or other evidences of indebtedness.

Refunding Bonds with Registration with State Auditor. School bonds may be refunded, with registration with the auditor of public accounts, under the act of Feb. 16, 1865, as amended by the act approved and in force April 27, 1877, and further amended by the acts of May 28–July 1, 1879, and June 4–July 1, 1879. [*Sections* 1–11, *Chap.*

113, *Rev. Stat. Ill.*] Nothing is gained by this registration unless it is proposed to sell the bonds at a distance, on the market. School boards thinking of registering refunding bonds should correspond with the auditor of public accounts.

ARTICLE 10.

COUNTY CLERK.

§ 1. To furnish to county superintendent a list of trustees elected.
§ 2. To file papers relating to changes in district boundaries; penalty for failure to do so.
§ 3. To furnish certificate of equalized value of taxable property in case of district in two counties.
§ 4. To furnish certificate of equalized value of taxable property to any district.
§ 5. To compute tax; to copy numbers of districts; extend tax and send certificate of amount due each district, etc.
§ 6. To certify to bills of county superintendents, and transmit them to state auditor.
§ 7. To record land sales reported by county superintendent.

222. To furnish list of trustees elect. SECTION 1. In all cases where by any provisions of laws, the returns of any election for school trustees are made to the county clerk of any county, it shall be the duty of the county clerk, within ten days after such returns have been made to him, as aforesaid, to furnish to the county superintendent of schools a list of all such trustees so returned to him, and the township from which the same have been so returned.

223. To file map, etc. § 2. Whenever any change shall be made in the boundaries of any school district, and a written statement or record of such change shall be delivered to the county clerk of such county, it shall be the duty of said county clerk to file such statement or record, and all papers relating thereto, and duly record the same in the records of his office; and in case of a neglect or failure so to do, the said county clerk shall be liable to a penalty of twenty-five dollars ($25), to be recovered by an action of debt before any justice of the peace, at the suit of the county superintendent, for the benefit of the school fund of the said county.

224. To furnish certificate of valuation of district in two counties. § 3. Whenever any school district lies partly in two or more counties, it shall be the duty of the county clerk of each county in which any part of such district lies, to furnish, upon request, to the directors of such district a certificate showing the last ascertained equalized value of the taxable property in that part of such district lying in county.

225. To furnish certificate of valuation. § 4. It shall be the duty of the county clerk to furnish to the directors of any school district, or to the board of education in districts having a board of education, upon request a certificate showing the last ascertained equalized value of the taxable property of such district, as the same appears of record in his office.

226. To compute and extend tax. § 5. It shall be the duty of the county clerk, when making out the tax books for the collector, to compute each taxable person's tax in each school district upon the total amount of taxable property, as equalized by the state board of equalization for that year, lying and being in such district, whether belonging to residents or non-residents, and also each and every tract of land assessed by the assessor which lies, or the largest part of which lies, in such district. Such computation shall be made so as to realize the amount of money required to be raised in such district, as shown and set forth in the certificate of tax levy, made out by the directors of such district, and filed with the township treasurer, as required by the provisions of this act. The said county clerk shall cause each person's tax, so computed, to be set upon the tax book, to be delivered to the collector for that year, in a separate column against each tax payer's name, or parcel of taxable property, as it appears in said collector's books, to be collected in the same manner and at the time, and by the same person as state and county taxes are collected. In making up the tax books to be delivered to the collectors of taxes, the county clerk shall copy into such tax books the number of the school district set opposite to each person's assessment of personal property by the assessor making the assessment of such person, and to extend the school tax on each person's assessment of personal property, according to the rate required by the amount designated by the directors of the school district in which such person resides, as shown by said certificate of tax levy. The computation of each person's tax and the levy made by the clerk, as aforesaid, shall be final and conclusive: *Provided*, that the rate shall be uniform, and shall not exceed that required by the amount certified by the board of directors. The said county clerk, before delivering the tax-book to the collector, shall make out and send by mail to each township treasurer of the county a certificate of the amount due each district, or fraction of a district in his township, of said tax so levied and placed upon the tax books.

227. To certify county superintendent's bill to auditor. § 6. Whenever a county board of any county

shall have audited the itemized bills of the county superintendent of schools or their assistants, as required by the provisions of this act, it shall be the duty of the county clerk of such county to certity to such act, and transmit the said bills to the auditor of public accounts, who shall, upon receipt of them, remit, in payment thereof to each superintendent, his warrant upon the state treasurer for the amount certified to be due him; and the auditor, in making his warrant to any county for the amount due from the state school fund, shall deduct from it the several amounts for which warrants have been issued to the county superintendent of said county since the next preceding apportionment of the state school fund.

228. To record county superintendent's reports. § 7. The county clerk of each county shall preserve and record in a well-bound book to be kept for that purpose, the report of the county superintendent, made to the county board, at the first regular term of such board in each year, relating to the sale of school lands, the amount of money received, paid, loaned out and on hand, belonging to each township fund in his control, and the statement copied from the loan book of such county superintendent, showing all the facts in regard to loans, which are required to be stated on the loan book.

ARTICLE 11.

COUNTY BOARD.

§ 1. Powers of the county board defined.
§ 2. Duties of the county board defined.
§ 3. Statement of land sales by the county board.

229. Official powers. SECTION 1. The county board of each county of this state shall have power—

First—To approve the bond of the county superintendent of schools.

Second—The increase the penalty of the bond of the county superintendent of schools beyond twelve thousand dollars ($12,000) if, in the discretion of said county board, such bond should be so increased.

Third—To remove the county superintendent of schools from office for any palpable violation of law or omission of duty.

Fourth—To require the county superintendent of schools, after notice given, to execute a new bond, conditioned and approved as the first bond, whenever in the discretion of

the county board such new bond is necessary: *Provided, however*, that the execution of such new bond shall not affect the old bond or the liability of the security thereof.

Fifth—To require the county superintendent of schools to make the reports to such board provided for by law, and to remove him from office in case of neglect or refusal so to do.

Sixth—In counties having not more than one hundred (100) schools the board may limit the time of the superintendent of schools: *Provided*, that in the counties having not more than fifty (50) schools the limit of time shall not be less than one hundred and fifty (150) days a year; in counties having from fifty-one (51) to seventy-five (75) schools, not less than two hundred (200) days a year; and in counties having from seventy-six (76) to one hundred (100) schools, not less than two hundred and fifty (250) days.

Seventh—Said county board shall authorize the county superintendent of schools to employ such assistants as he needs for the full discharge of his duties, and said county board shall fix the compensation to be paid therefor, which compensation shall be paid out of the county treasury.

230. Official duties. § 2. It shall be the duty of the county board of each county of this state—

First—To provide for the county superintendent of schools a suitable office with necessary furniture and office supplies, as is done in the case of other county officers.

Second—When the office of county superintendent of schools shall become vacant by death, resignation, removal or otherwise, to fill the same by appointment. And the person so appointed shall hold his office until the next election of county officers, at which election the said board shall order the election of a successor.

Third—To examine and approve or reject the report of the county superintendent of schools, made to such board, and the notes and securities taken by such superintendent for school funds.

Fourth—At the regular meeting in September, and as near quarterly thereafter, as such board may have regular or special meetings, to audit the itemized bills of the county superintendent, and of his assistants, for their per diem compensation and expenses allowed by law for visiting schools.

Power of the County Board. In relation to the distributable fund, the power of the county board in the premises is, solely, to examine the account and certify as to its accuracy. The law directs how the fund shall be managed

and what disposition shall be made of it; and as to these matters the county board may not control the discretion of the county superintendent. If he violates the law, the board may remove him; if the fund suffers loss, the board may hold him on his bond; but within the limitations imposed by the law, the county superintendent acts independently of the county board. He has the same freedom of action in regard to the county fund and the institute fund, and in regard to plans and methods in the performance of his official duties and the division of his time among them. But the expenses to be paid under **12** must be authorized by the county board, and the board must audit and approve them. If the county superintendent incurs such expenses without authority, and the board disapproves, he will have them to pay himself.

Harmony of action between the county board and county superintendent will be promoted, if each will keep within the limits imposed by the law and yield to the other his full rights. It should be added that the purpose of requiring these reports is that the interests of the public may be guarded, and in order that that end may be attained, the reports should all be made up with fullness of detail and with accuracy. All public business should be done in a methodical way and with such care and fidelity as to welcome scrutiny and defy suspicion.

231. To examine county superintendent's report—Liability. § 3. At the first regular term of the county board, in each year, the county superintendent shall present to the county board of his county—

First—A statement showing the sales of school lands made subsequent to the first regular term of the previous year, which shall be a true copy of the sale book (book B).

Second—Statements of the amount of money received, paid, loaned out and in hand, belonging to each township or fund under his control, the statement of each fund to be separate.

Third—Statements copied from his loan book (book C), showing all the facts in regard to loans which are required to be stated on the loan book.

All of which the county board shall thereupon examine and compare with the vouchers, and the said county board, or so many of them as may be present at the meeting of

the board, shall be liable individually to the fund injured and to the securities of the county superintendent, in case judgment be recovered of the said securities, for all damages occasioned by a neglect of the duties or any of them, required of said board by this section: *Provided*, nothing herein contained shall be construed to exempt the securities of said county superintendent from any liability as such securities, but they shall still be liable to the fund injured the same as if the members of the county board were not liable to them for neglect of their duty.

ARTICLE 12.

SCHOOL FUNDS.

§ 1. To consist of a two mill tax; interest of school fund proper, and of surplus revenue.
§ 2. State to pay interest.
§ 3. Dividend to counties made by state auditor.
§ 4. Warrants issued by state auditor, and received from the collectors by state treasurers.
§ 5. County superintendent to proceed against collector on his refusal to pay.
§ 6. Proceeds of the sale of sixteenth section, etc., constitute principal of township fund, etc.; interest distributed.
§ 7. Moneys paid out upon orders.
§ 8. Form of orders; filing of orders.
§ 9. Union districts; receipts to be taken.
§ 10. Loans in districts under a special charter.

232. Distributable school fund. SECTION 1. The common school fund of this state shall consist of the proceeds of a two mill tax to be levied upon each dollar's valuation of the property in the state, annually, until otherwise provided by law; the interest on what is known as the school fund proper, being three per cent. upon the proceeds of the sales of the public lands in the state, one-sixth part excepted, and the interest on what is known as the surplus revenue, distributed by act of congress and made a part of the common school fund by act of the legislature, March 4, 1837.

State Tax for School Purposes. In section one of an act to provide the necessary revenue for state purposes, approved May 3, 1872, it was provided that there should be levied "for state school purposes, to be designated state school fund (in lieu of the two-mill tax therefor) $1,000,000 annually." By the twenty-third clause of this act making appropriations the same year for the expense of the state government, this amount was appropriated to the counties from the state school fund, and the auditor was author-

ized to "issue his warrant, on the proper evidence that the amount distributed had been paid to the county school superintendents." Substantially the same course has been taken by the subsequent general assemblies.

233, Rate of interest. § 2. The state shall pay the interest mentioned in the preceding section at the rate of six per cent. per annum, annually, to be paid into, and become a part of said school fund.

State indebted to the School Funds. The state has borrowed and used the school fund proper with the surplus revenue fund added to it, as above, the college fund, and the seminary fund. The aggregate of these funds is about eleven hundred and sixty-five thousand dollars. Of the interest a little more than fifty-six thousand dollars goes to the common school fund. About thirteen thousand dollars goes to the two state normal schools, which share it equally.

234. Apportionment by auditor—Warrants. § 3. On the first Monday in January in each and every year next after taking the censes of the state, by federal or state authority, the auditor of public accounts shall ascertain the number of children in each county in the state, under twenty-one years of age, and shall thereupon make a dividend to each county of the sum from the tax levied and collected under the provisions of the first section of this article of this act, and of the interest due on the school fund proper and surplus revenue, in proportion to the number of children in each county under the age aforesaid, and issue his warrant to the superintendent of schools of each county upon the collector thereof. Upon presentation of said warrant by the county superintendent to the collector of his county, said collector or the treasurer shall pay over to the county superintendent the amount of said warrant out of the first funds which may be collected by him and not otherwise appropriated by law, taking said superintendent's receipt therefor.

Apportionment by State Auditor on U. S. Census. Inasmuch as there has been no census taken by state authority since 1865, the apportionment by the auditor has been made upon the U. S. census.

235. Warrants received by treasurer. § 4. The said warrants issued by the auditor of public accounts for the school fund tax and for the interest of the school fund proper and surplus revenue, shall be received by the state treasurer in payment of amounts due to the state from

county collectors; and on presentation by the state treasurer of said warrants to said auditor, he shall issue his warrant to said treasurer on the school fund, for the amount of the school fund tax warrants, and on the revenue fund for the amount of the warrants for interest on the school fund proper and surplus revenue. Dividends shall be made as aforesaid, according to the proportions ascertained to be due to each county annually, thereafter, until another census shall have been taken, and then dividends shall be made and continued as aforesaid, according to the last census.

236. Failure of collector to pay warrants. § 5. If any collector shall fail or refuse to pay the amount of the aforesaid auditor's warrant, or any part thereof, by the first day of March annually, or as soon thereafter as it may be presented, it shall be competent for the county superintendent to proceed against said collector and his securities in an action of debt, in any court having competent jurisdiction, and the said collector shall pay interest at the rate of twelve per centum per annum, to be assessed as damages, upon the amount due, and which interest shall be included in the judgment obtained against him: *Provided*, that if it satisfactorily appears to the court that on said first day of March, or on the day of presentation for payment thereafter, that said collector had not, as yet, collected funds sufficient to pay said warrant, said interest shall not be allowed upon said warrant.

County Superintendent entitled to Full Amount of Auditor's Warrants. The warrants issued by the auditor of public accounts to county superintendents of schools, upon county collectors, both those for the school tax fund and for the interest on the school fund, must in all cases be paid *in full* by said collectors. No deduction can be made for commissions. Those warrants are issued simply as a matter of convenience, to save the trouble of paying the money into the state treasury and then paying it out again to the county superintendents of schools. Collectors take receipts of county superintendents for the full amount of the warrants paid, and on settlement with the auditor they are credited with the full amount specified in said receipts, the same as if the money had been actually paid into the treasury. County superintendents have nothing whatever to do with the commissions of collectors; said commissions are allowed and paid by the auditor on final

settlement of collectors with the state; and if any collector withholds any part of the sum specified in the warrants, on account of commissions, or on any other account, after the amount of said warrants is collected and payable, it is the duty of the superintendent to proceed against said collector and his securities, in an action of debt, in the county court, which has full and complete jurisdiction in the premises. And the collector must pay, as penal damages, twelve per centum upon the amount due and in default.

237. Principal of township fund—Interest—Additions to principal. § 6. All bonds, notes, mortgages, moneys and effects which have heretofore accrued or may hereafter accrue from the sale of the sixteenth section of the common school lands of any township or county, or from the sale of any real estate or other property taken on any judgment or for any debt due to the principal of any township or county fund, and all other funds of every description which have been or may hereafter be carried to and made part of the principal of any township or county fund, by any law which has heretofore been, is now or may hereafter be enacted, are hereby declared to be and shall forever constitute the principal of the township or county fund, respectively; and no part thereof shall ever be distributed or expended for any purpose whatever, but the same shall be loaned out and held to use, rent or profit, as provided by law. But the interest, rents, issues and profits, arising and accruing from the principal of said township or county fund, shall be distributed in the manner and at the times as provided by this act; nor shall any part of such interest, rents, issues and profits be carried to the principal of the respective funds, except [if] it appear on the first Monday in October in any year, that there is rent, interest or other funds on hand which are not required for distribution, such amount not required as aforesaid, may, if the board of trustees see proper, forever be considered as principal in the fund to which it belongs and loaned as such.

1. *Sixteenth Section, or Township Fund.* The act passed by Congress April 18, 1818, enabling the people of the Territory of Illinois to form a constitution and a state government, contained this with other propositions: "The section numbered sixteen in every township, and when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be

granted to the state, for the use of the inhabitants of such township, for the use of schools."

The constitutional convention, assembled pursuant to this act, accepted these propositions with the conditions attached, by an ordinance passed August 26, 1818.

Through these acts the state acquired full title to these lands as a purchaser, subject, however, morally, to the provision that the lands were granted "for the use of schools." [*Bradley* v. *Case*, 3 Scammon, 585.]

A formal declaration, like that in the section under consideration, does not appear in the statutes until the law of 1855, but the ownership of the state and the rights of the townships had been fully recognized from the first in the legislatures of the state.

See, also, the provisions of the present constitution and the comments thereon, page 9.

2. *County Fund.* The county funds were created by the act of February 7, 1835. They are managed by the county superintendent. [**27**].

3. *Income, how disposed of.* The income of the township fund goes into the distributable fund held by the treasurer and is distributed by the trustees. [**55** *and* **100**].

The income of the county fund is distributed by the county superintendent according to the provisions of **26** and **27.**

4. *Additions to Township Funds.* On this subject see **111,** *note* 3.

238. District funds paid out. § 7. School funds collected from special taxes, levied by order of school directors or from the sale of property belonging to any district, shall be paid out only on the order of the proper board of directors; and all other moneys or school funds liable to distribution, paid into the township treasury, or coming into the hands of the township treasurer, shall, after said funds have been apportioned by the township trustees as required in section 26, of article 3, of this act, be paid out only on the order of the proper board of directors, signed by the president and clerk of said board or by a majority of said board. For all payments made, receipts shall be taken and filed by said board of directors.

1. *District Funds Subject to order of District Board only.* District funds may be paid out by the treasurer

holding them upon a proper order of the school board of the district, signed by two of its members. [*Langdale* v. *People*, 100 Ill., 263.] But in case a new district is formed, any adjustment of funds between the old district and the new may be made by the trustees and the treasurer without an order from the school board. [**93**, *note* 7.]

Also, when pupils are transferred from one district to another in the same township, the treasurer upon receiving the separate schedules can make the necessary transfer of funds from one district to the other without an order by the directors. [**155**, *note* 2.]

One director may not sign an order for another; it is a power which may not be delegated. [*Glidden* v. *Hopkins*, 47 Ill., 525.]

A subsequent board of directors cannot ratify an illegal act of their predecessors. The acts of each board must stand by themselves. An order void in its inception cannot be made valid by the act of any succeeding board, or by the promise of any official to pay it. [*Ibid.*]

2. As a general rule, township treasurers must pay all orders regularly drawn and expressing upon their face for what purpose they were drawn; and for paying such orders they incur no responsibility; the orders being in themselves good *prima facie* authority for such payment. But an order in favor of a member of the board of directors [**143**, *notes*], unless for the clerk's services, is presumptively illegal; an order to a teacher who has no certificate must not be paid [**189**]; and any order which the directors forbid him to pay, or about which he has or obtains such information as leads him to think it of doubtful legality, he should investigate with care; and if he find it fraudulent or invalid for any cause, he should refuse to pay it.

239. Form of order—Receipt. § 8. In all such orders shall be stated the purpose for which or on what account drawn. Said orders may be in the following form, viz:

The treasurer of township No.....range No.....in.....county, will pay to .....or order.....dollars and.....cents (on his contract for repairing school house, or whatever the case may be.)

By order of the board of directors of school district No.....in said township.

A.....B....., *President.*
C.....D....., *Clerk.*

Which order, together with the receipt of the person to whom paid, shall be filed in the office of the township treasurer; *Provided*, that when an order is paid in full, such order, if properly endorsed by the person in whose favor it was drawn, and his assigns, if any, shall be a sufficient receipt for the purposes of this section.

1. *Orders.* A school order must express upon its face the purpose for which it is issued. If it does not, it is void. [*Glidden* v. *Hopkins*, 47 Ill., 525.]

School orders should be drawn neither payable on time nor with interest; i. e., they should be payable at sight and should contain no stipulations about interest. [*Clark* v. *Directors*, 78 Ill., 474.]

The teacher's order for wages is not an exception to this rule. As issued by the directors, it should be payable at sight and should be drawn without interest. It may draw interest by reason of non-payment and endorsement of the treasurer, but not otherwise.

The treasurer has no power to make any other order than a teacher's order for wages draw interest.

The only legal order, payable on time and with interest would be one issued for building purposes pursuant to a vote and in a place of a bond. [*Folsom* v. *Directors*, 91 Ill., 402.]

2. *Assignment.* A school order may pass by indorsement so as to vest title in the assignee and authorize him to institute suit thereon in his own name. But there is a wide difference between the rights of the assignee of such an order and the rights of the assignee of a promisory note or bill of exchange before maturity. He must, at his peril, ascertain what defences can be interposed against its collection. [*Newell* v. *Directors*, 68 Ill., 514.]

3. *Acceptances.* A school board has no power to make acceptances of orders so as to bind the school district and create a right of action against it. [*Peers* v. *Board of Education*, 72 Ill., 508.]

240. Union district. § 9. When a district is composed of parts of two or more townships, the township treasurer or treasurers who do not receive the tax money of said district, shall, when they hold any funds belonging to said district, notify the directors thereof of the amount of such funds;

and the directors shall thereupon give the treasurer who receives the tax money of said district, an order for such funds, and upon receipt thereof, he shall hold them, to be paid out as aforesaid.

Funds of Union Districts. By **146**, *fourth*, it is made the duty of the directors of a union district to order in writing the collectors of taxes to pay the moneys they collect for the district to one of the treasurers. In furtherance of the same purpose power is granted to the directors of a union district to transfer funds from one treasurer to another.

241. Funds of special districts. § 10. In all cases where school funds are held by any person or persons in an official capacity, by virtue of any special charter defining the manner of loaning the same, such money may be loaned upon the same terms and conditions as are provided by this act, or may hereafter be provided, by the school laws of this State, for loaning the school funds of counties or townships.

ARTICLE 13.

SCHOOL LANDS.

§ 1. Section sixteen.
§ 2. Business relating to school land; where transacted.
§ 3. Renting and sale of school lands.
§ 4. Right of way and depot grounds for use of railroads.
§ 5. Trespass on school land; penalty
§ 6. Trespasser liable to indictmnt.
§ 7. Penalties and fines to be paid to township treasurer.
§ 8. Petition for sale.
§ 9. Fractional townships.
§ 10. Divided into lots by trustees.
§ 11. Making of a plat.
§ 12. Size of lots, roads and streets.
§ 13. Valuation; plats and certificate given to county superintendent.
§ 14. Advertising the sale; form of notice.
§ 15. Place of sale.
§ 16. Terms of sale; amount of bid borrowed.
§ 17. Manner of sale.
§ 18. Payment; land resold; suit instituted.
§ 19. Unsold land afterward subject to sale.
§ 20. Re-valuation of unsold lands; no petition required.
§ 21. Certificate of purchase.
§ 22. Statement of sales by county superintendent.
§ 23. Transcript sent to auditor.
§ 24. Patents; certificates of sale; evidence of sale.
§ 25. Duplicates of certificates of purchase.
§ 26. Real estate taken for debt, sold by county superintendent.
§ 27. Trustees may dedicate land for streets.

242. Common school lands. SECTION 1. Section number sixteen (16) in every township granted to the state by the United States for the use of schools, and such sections and parts of sections as have been or may be granted, as aforesaid, in lieu of all or part of section number sixteen (16), and also the lands which have been or may be selected and granted as aforesaid, for the use of schools, to the in-

habitants of fractional townships in which there is no section number sixteen (16), or where such section shall not contain the proper proportion for the use of schools in such fractional townships, shall be held as common school lands; and the provisions of this act referring to common school lands shall be deemed to apply to the lands aforesaid.

Common School Lands. See **237**, *note*, for some account of these lands. These lands, with the exception of a few acres, were sold years ago, and the sections of the law relating to them and their sale will be passed with but few comments.

243. Business transacted. § 2. All the business of such townships so far as relates to common school lands shall be transacted in that county which contains all or a greater portion of said lands.

244. Trustees may lease. § 3. It shall be lawful for the trustees of schools in townships in which section number sixteen (16), or any other lands granted in lieu thereof, remain unsold or which has title to any other school lands whatsoever, to rent or lease the same for an annual rent to be paid in money to the treasurer, by a written contract made by the president and clerk, under the direction of the board, with the lessee or lessees, which contract shall be filed with the records of the board, and a copy of the same transmitted to the county superintendent. In case of any default in the payment of the rent, the said board of trustees shall at once proceed to collect the same by distress, or otherwise, as may be provided by law for the collection of rents by landlords. No lease taken under the provisions of this act, shall be for a longer period than five years, except where such lands are leased for the purpose of having permanent improvements made thereon, as may be the case in cities and villages; *Provided*, that the provisions of this section shall not apply to cities having a population of over one hundred thousand (100,000) inhabitants.

245. May sell to railroad. § 4. The trustees of schools of any township concerned, are hereby authorized and empowered in their corporate capacity, to sell and convey to any railroad company which may construct a railroad across any of the public school lands of such township, the right of way and necessary depot grounds. All moneys received by such trustees for any right of way or depot grounds so sold, shall be turned over by such trustees to the township treasurer of the township for the benefit of the township school fund.

246. Trespass. § 5. If any person shall, without being duly authorized, cut, fell, box, bore, destroy or carry away any tree, sapling or log standing or being upon any school lands, such person shall forfeit and pay, for every tree, sapling or log so felled, boxed, bored, destroyed or carried away, the sum of eight dollars ($8), which penalty shall be recovered with costs of suit, by an action of debt or assumpsit, before any justice of the peace having jurisdiction of the amount claimed, or in the county or circuit court, either in the corporate name of the board of trustees of the township to which the land belongs, or by *qui tam* action in the name of any person who will first sue for the same, one-half of the judgment for the use of the person suing and the other half for the use of the township aforesaid. When two or more persons shall be concerned in the same trespass, they shall be jointly and severally liable for the penalty herein imposed.

247. Liability of trespasser. § 6. Every trespasser upon common school lands, shall be liable to indictment, and upon conviction shall be fined in three times the amount of the injury occasioned by said trespass, and shall stand committed as in other cases of misdemeanor.

248. Penalties. § 7. All penalties and fines collected under the provisions of the foregoing sections shall be paid to the township treasurer, and be added to the principal of the township fund.

249. Petition for sale. § 8. When the inhabitants of any township or fractional township shall desire the sale of the common school lands of the township or fractional township, they shall present a petition to the county superintendent of the county in which the school lands of the township, or the greater part thereof, lie, for the sale thereof; which petition shall be signed by at least two-thirds of the legal voters of the township, or fractional township. The signing of the petition must be done in the presence of two adult citizens of the township, after the true meaning and purpose thereof have been explained; and, when signed, an affidavit must be affixed thereto by the two citizens witnessing the signing, in the manner aforesaid, which affidavit shall state the number of inhabitants in the township, or fractional township, of and over twenty-one years of age; and said petition, so proved, shall be delivered to the county superintendent for his action thereon; *Provided*, no whole section shall be sold in any township containing less than two hundred inhabitants; and common school lands in fractional townships may be sold when the number of inhabitants and the

number of acres are are in the ratio of two hundred to six hundred and forty, but not before.

1. *Sales of School Lands.* The general assembly made provision for the sale of school lands in 1829, at the same time asking congress to grant the state power to make the sales. The power was not granted by congress until 1843; but the general assembly passed a second act in 1831, and the sales were begun in August of that year. Acts of congress of 1842 and 1843, ratified and confirmed sales already made. The supreme court also held that the legislature had power to order sales. [*Bradley* v. *Case*, 3 Scammon, 585.]

2. *Division of a Township.* If a part of a school township is set off to another township by the legislature and no division of the township fund or of the school lands is provided for in the act, the original township will retain the whole of the sixteenth section or of the fund. [*People* v. *Trustees*, 86 Ill., 613.]

250. Fractional township joined to adjacent township. § 9. Any fractional township, not having the requisite number of inhabitants to petition for the sale of the school lands therein, as provided in section 8 of this article of this act, which has not heretofore been united with any other township, for school purposes, and which does not contain a sufficient number of inhabitants to maintain a free school, is hereby attached to the adjacent congressional township having the longest territorial line bordering on such fractional township, for school purposes; and all the provisions of this act shall apply to such united townships, the same as though they were one and the same township.

251. Division of land. § 10. When the petition and affidavits are delivered to the county superintendent, as aforesaid, he shall notify the trustees of said township thereof, and said trustees shall immediately proceed to divide the land into tracts or lots, of such form and quantity as will produce the largest amount of money.

252. Plat. § 11. After making the division required by the foregoing section, said trustees shall cause a correct plat of the same to be made, representing all divisions, with each lot numbered and defined, so that its boundaries may be forever ascertained.

253. Size of lots—Streets. § 12. In subdividing said common school lands for sale, no lot shall contain more

than 80 acres, and the division may be made into town or village lots, with roads, streets or alleys between them and through the same; and all such divisions, with all similar divisions hereafter made, are hereby declared legal, and all such roads, streets and alleys, public highways.

254. Valuation, § 13. After such division into lots has been made and platted, the trustees of schools shall fix a value on each lot, having regard to the terms of sale, certify to the correctness of the plat, stating the value of each lot per acre, or per lot if less than one acre, and referring to and describing the lot in the certificate, so as fully and clearly to distinguish, and identify each lot; which plats and certificate shall be delivered to the county superintendent, and shall govern him in advertising and selling such lands.

255. Advertisement. § 14. Upon the reception by the county superintendent of the plat and certificate of valuation from the trustees, he shall proceed to advertise the said land for sale in lots as divided and laid off by said trustees, by posting notices thereof in at least six (6) public places in the county, forty days before the day of sale, describing the land and stating the time, place and terms of sale; and if any newspaper is published in said county, said advertisement shall be printed therein, for four weeks before the day of sale; if no newspaper is published in said county, then such land may be sold under the notice aforesaid, which notice may be in the following form, viz.:

SALE OF SCHOOL LAND.

Public notice is hereby given that on the ..... day of....., A. D. 18....., between the hours of ten o'clock a. m. and six o'clock p. m., the undersigned superintendent of schools of.....county, will sell at public vendue to the highest bidder, at the ..... door of the court house, in ....., (or on the premises,) the following described real estate, the same being a part of the school lands of township No....., range No....., as divided and platted by the trustees of schools of said township, to-wit: (here insert full and complete description of said premises). Said lands will be sold for cash in hand with the privilege to any purchaser of borrowing from the undersigned, the whole or any part of the amount of his bid, for not less than one nor more than five years, upon his paying interest and giving security as required in case of a loan obtained from the township school fund.

Dated this.....day of....., A. D.....

.....

County Superintendent.....County.

256. Place of sale, § 15. The place of selling common school lands shall be at the court house of the county in which the lands are situated; or the trustees of schools may direct the sale to be made on the premises.

257. Terms. § 16. The terms of selling common school lands shall be to the highest bidder, for cash, with the privilege to each purchaser of borrowing from the county superintendent the amount or any part of the amount of his bid, for any period of not less than one

year nor more than five years, upon his paying interest and giving security, as in case of money loaned by a township treasurer as provided in this act.

258. Sale. § 17. Upon the day appointed for such sale, the county superintendent shall proceed to make sales as follows, viz: He shall begin at the lowest numbered lot and proceed regularly to the highest numbered, till all are sold or offered. No lot shall be sold for less than its valuation by the trustees. Said sale shall be made between the hours of ten o'clock a. m. and six o'clock p. m., and may continue from day to day. The lots shall be cried separately, and each lot cried long enough to enable any person present to bid who desires to bid.

259. Closing up sales—Delinquent purchaser. § 18. Upon closing the sales each day, the purchasers shall each pay, or secure the payment of the purchase money, according to the terms of sale; or in case of his failure to do so by ten o'clock the succeeding day, the lot purchased shall again be offered at public sale, on the same terms as before, and if the valuation or more shall be bid, shall be stricken off; but if the valuation be not bid, the lot shall be set down as not sold. If the sale is or is not made, the former purchaser shall be required to pay the difference between his bid and the valuation of the lot; and in case of his failing to make such payment, the county superintendent may forthwith institute an action of debt or assumpsit in his name, as superintendent, for the use of the inhabitants of the township where the land lies, for the required sum; and upon making proof, shall be entitled to judgment, with costs of suit; which, when collected, shall be added to the principal of the township fund. If the sum claimed does not exceed two hundred dollars, the suit may be commenced before a justice of the peace; if the sum demanded exceeds two hundred dollars, then suit may be brought in the circuit court of any county wherein the party may be found.

260. Private sale. § 19. All lands not sold at public sale, as herein provided for, shall be subject to sale at any time thereafter, at the valuation; and the county superintendents are authorized and required, when in their power, to sell all such lands at private sale, upon the terms at which they were offered at public sale.

261. Revaluation. § 20. In all cases where common school lands have been heretofore valued, and have remained unsold for two years, after having been offered for sale, or soall hereafter remain unsold for that length of time, after being valued and offered for sale, in conformity

to this act, the trustees of schools where such lands are situated may vacate the valuation thereof, by an order to be entered in book A of the county superintendent, and cause a new valuation to be made, if, in their opinion, the interests of the township will be promoted thereby. They shall make said second valuation in the same manner as the first was made, and shall deliver to the county superintendent a plat of such second valuation, with the order of vacation, to be entered as aforesaid, whereupon said county superintendent shall proceed to sell said lands in all respects as if no former valuation had been made: *Provided,* that the second valuation may be made by the trustees of schools, without petition, as provided in this act for the first valuation.

263. Certificate of purchase. § 21. Upon the completion of every sale by the purchaser, the county superintendent shall enter the same in book B, and shall deliver to the purchaser a certificate of purchase, stating therein the name and residence of the purchaser, describing the land and the price paid therefor; which certificate shall be evidence of the facts therein stated.

263. Statement to county board. § 22. At the first regular term of the county board in each year the county superintendent shall present to the county board of his county: A statement showing the sales of school lands, made subsequent to the first regular term of the previous year, which shall be a true copy of the sale book (book B).

264. To auditor. § 23. The county superintendent shall also at the time aforesaid transmit to the auditor of public accounts, a full and exact transcript from book B, of all the sales made subsequent to each report. The statement required to be presented to the county board shall be preserved and copied by the clerk of said board into a well bound book kept for that purpose; and the list transmitted to the auditor shall be filed, copied and preserved in like manner.

265. Patents. § 24. Every purchaser of common school lands shall be entitled to a patent from the state, conveying and assuring the title. Patents shall be made out by the auditor, from returns made to him by the county superintendent. They shall contain a description of the land granted, and shall be in the name of and signed by the governor, countersigned by the auditor, with the great seal of the state affixed thereto by the secretary of state, and shall operate to vest in the purchaser a perfect title

in fee simple. When patents are executed as herein required, the auditor shall note on the list of sales the date of each patent, in such manner as to perpetuate the evidence of its date and delivery, and thereupon transmit the same to the county superintendent of the proper county, to be by him delivered to the patentee, his heirs or assigns upon the return of the original certificate of purchase, which certificate, when returned, shall be filed and preserved by the county superintendent; and all such patents, heretofore or hereafter so issued, by the state for school lands, or duly certified copies thereof from any record legally made, shall after the lapse of ten years, from the date of such patent, and such sale having been acquiesced in for ten years by the inhabitants of the township in which the land so conveyed may be situated, be conclusive evidence as to the legality of the sale, and that the title to such land was, at the date of the patent, legally vested in the patentee.

266. Duplicate patents. § 25. Purchasers of common school lands, and their heirs and assigns, may obtain duplicate copies of their certificates of purchase and patents, upon filing affidavit with the county superintendent in respect to certificates, and with the auditor in respect to patents, proving the loss or destruction of the originals; and such copies shall have all the force and effect of originals.

Duplicate Copies of Patents. The term "duplicate," as here used, means "certified." The auditor is required to issue a certified copy of the patent as he may of any other paper shown in the files and records of his office. [*Jackson* v. *Berner*, 48 Ill., 203.]

267. Sale of real estate taken on debt. § 26. When any real estate shall have been taken for any debts due to any school fund, the title to which real estate has become vested in any county superintendent for the use of the inhabitants of one or more townships or of the county, the county superintendent may lease or sell such real estate for the benefit of said township or townships, or of the county, as provided for in section 37 of article 3 of this act, regulating the leasing and sales of land by school trustees: *Provided*, that in case the real estate be held for the benefit of any township or townships, it shall not be sold except upon the written request of the school trustees of said township or townships. The said county superintendent is hereby authorized to execute conveyances of such real estate to the purchasers when so sold.

268. Opening highways—Railroads. § 27. The trustees of schools in any township are hereby authorized and empowered, in their corporate capacity, to lay out and dedicate to the public use, for street and highway purposes, so much of the common school lands, which is unimproved or unoccupied with buildings, as may be necessary to open or extend any street or highway which may be ordered opened or extended by the municipal authorities, which are by law empowered to open or extend streets or highways in the territory where said school lands are located: *Provided*, that said trustees of schools shall be of the opinion that the benefits to accrue from the opening or extending of said street or highway, to the remainder of said common school lands, will compensate for the strip so dedicated: *And, provided, further*, that it shall not be lawful for any street or other railroad to lay down railroad tracks on any strip of the common school land so dedicated, or use the same or any part of the common school lands for railroad or street railroad purposes, except upon the purchase or lease of the same from the proper authorities, or upon the payment to the school fund of said township of the value of such use or land laken, the same as if no street or highway had been laid out thereon, to be determined by proceedings under an act entitled, "An act to provide for the exercise of the right of eminent domain," approved April 10, 1872, and all amendments thereto: *And, provided, further*, that this section shall not in any way affect existing leases or contracts for the lease or purchase of common school lands.

ARTICLE 14.

FINES AND FORFEITURES.

§ 1. Paid to county superintendent.
§ 2. Duties of state's attorneys.
§ 3. Du ies of justices of the peace.
§ 4. Report of fines; affidavit; penalty for failure to report.
§ 5. Penalty for failure to pay over fines collected.
§ 6. Power of the county court to examine records of delinquent officers; penalty for failure to furnish papers, etc.

269. Fines, etc., paid to county superintendent. SECTION 1. All fines, penalties and forfeitures imposed or incurred in and of the courts of record, or before any justice of the peace of this state, except fines, forfeitures and penalties incurred or imposed in incorporated towns or cities for the violation of the by-laws or ordinances thereof,

shall, when collected, be paid to the county superintendent of schools of the county wherein such fines, penalties or forfeitures have been imposed or incurred, and the said county superintendent of schools shall give his receipt therefor to the person from whom such fine, forfeiture or penalty was received. The said county superintendent shall annually distribute such fines, penalties or forfeitures in the same manner as the common school funds of the state are distributed.

270. State's attorneys to enforce collection. § 2. It shall be the duty of the state's attorneys of the several counties to enforce the collection of all fines, forfeitures and penalties imposed or incurred in the courts of record of their respective counties, and to pay the same over to the county superintendent of the county wherein the same have been imposed or incurred, retaining therefrom the fees and commissions allowed them by law.

Fines and Forfeitures. It is the duty of state's attorneys to attend to the collection of all fines, forfeitures and penalties imposed in any court of record in their respective counties.

It is the duty of the justices of the peace to collect all fines imposed by them.

These officers and the clerks of courts of record must report annually, under oath, the amount of the fines, forfeitures and penalties imposed or incurred in their respective courts, and the amount collected, giving each item separately.

Clerks of courts of record are not made by law the collectors of fines, forfeitures and penalties; and if any such are paid them they should turn them over to the state's attorney, who is by law the collector.

271. Duties of Justices. § 3. It shall be the duty of the justices of the peace to enforce the collection of all fines imposed by them, by any lawful means, and, when collected, the same shall be paid, by the justice collecting the same, to the county superintendent of the county in which the same was imposed.

272. Reports. § 4. Clerks of courts of record, state's attorneys and all justices of the peace shall report, under oath,* to the county court of their respective counties, by the first of March, annually, the amount of such fines, penalties and forfeitures imposed or incurred in their res-

* Form No. 55.

pective courts, and the amount of such fines, forfeitures and penalties collected by them, giving each item separately, and if any such officer has collected no such fines, penalties or forfeitures, he shall make affidavit to such fact; and file the same with the county superintendent. The judges of the county court shall inspect the said reports, and may hear evidence thereon, and, if found correct and truthful, shall enter an order approving such report, and that any moneys in the hands of such officers so reporting shall be paid over to the superintendent of schools. If the court shall not approve of such report he may order a new one to be made, and, upon a failure to comply with the order of the court or to make a satisfactory report, the court may state an account and enter an order to pay over as above provided. The court, for all purposes for carrying out the provisions of this section, shall have power to examine books and papers, as provided hereinafter in section 6 of this article, and shall have power to issue subpœnas for both books and persons; *Provided*, that no report shall be approved until the court shall have given the superintendent five (5) days' notice of the same, and he shall be allowed to inspect said report, and he shall be heard by the court upon the same if he desire; and the officers charged with the collection thereof (the said clerk, state's attorneys and justices of the peace), for a failure to make such a report, shall be liable to a fine of twenty-five dollars ($25) for each offense, said fine to be recovered in a civil action, before any court, at the suit of the county superintendent of schools of the proper county.

273. Penalties. § 5. For a failure to pay any fine, forfeiture or penalty, on demand, to the person who is by law authorized to receive the same, the officer or person having collected the same, or having the same in his possession or control, shall forfeit and pay double the amount of such fine, penalty or forfeiture as aforesaid to be recovered before any court having jurisdiction thereof, in a *qui tam* action, one-half to be paid to the informer, and one-half to the school fund of the proper county.

Penalties. There are two penalties in connection with this matter: One for a failure to report each fine, etc., which has been imposed or incurred or collected during the year; and the other for a failure to pay over, on demand, to the person entitled to receive it, the amount of such collections. The penalty in the first instance is twenty-five dollars; in the second double the amount illegally retained.

274. County judge to examine. § 6. In case that any clerk of a court of record, state's attorney or justice

of the peace shall fail to make the report provided for in section 4 of this article, the county court shall have power and it is hereby made the duty of the judge of said court, to examine all records pertaining to the office of such delinquent officer, and enforce the payment of whatever sum may be found due the school fund from such delinquent officer. For the purpose of making such examination, the said county court shall have the right to call for any paper or papers, docket, fee-book, or other record belonging to the office of such delinquent officer; and in case such delinquent officer fails or refuses to furnish such paper, docket, fee-book, or other record, for the inspection or use of such county court, he shall forfeit, and pay to the school fund, the sum of one hundred dollars ($100), to be recovered in an action of debt or assumpsit, before any court of this state having jurisdiction of the actions of debt and assumpsit, and such penalty, when collected, shall be paid into the school fund of the proper county.

ARTICLE 15.

LIABILITY OF SCHOOL OFFICERS.

§ 1. Of trustees for failure to take action regarding the insufficiency of township securities.
§ 2. Of judges of election for failure to deliver poll-book and certificate.
§ 3. Of boards of directors for failure to deliver schedules.
§ 4. Of township treasurer for failure to perform his duties.
§ 5. Of the bondsmen or legal representatives of township treasurer to turn over bonds, etc., to successor.
§ 6. Liable to indictment and imprisonment for conversion of funds
§ 7. Trustees liable for securities of township treasurer; exception.
§ 8. Real estate of school officers holden.
§ 9. Failure of trustees to make returns of children.
§ 10. Failure of school officers to furnish statistics.
§ 11. School officers responsible for loss of funds.
§ 12. Forbidden to pervert funds to sectarian purposes.
§ 13. Interes in sale of school books, etc., forbidden.
§ 14. Penalty for excluding colored children from school.

275. Trustees. SECTION 1. Whenever the county superintendent of schools of any county shall notify the board of trustees of any township, in writing, that the notes, bonds, mortgages, or other evidences of indebtedness which have been taken officially by the township treasurer, are not in proper form, or that the securities which the said township treasurer has taken are insufficient, it shall be the duty of the said board of trustees at once to take such action as may be necessary to save and protect the property or funds of the districts and the township; and for a failure or refusal to take such action within twenty (20) days after such notice, the members of the board, each in

his individual capacity, shall be liable to a fine of not less than twenty-five (25) nor more than one hundred dollars ($100), to be recovered before any justice of the peace, on information, in the name of the People of the State of Illinois, (provided such insufficiency is proven,) and, when collected, the said fine shall be paid to the county superintendent of the proper county, for the use of schools. And the payment of this fine shall not relieve the board of trustees from any civil liability they may have incurred from such neglect of duty.

276. Judges of elections. § 2. If the judges of any school election called for any legal purpose shall fail or neglect to deliver a copy of the poll-book of any such election, with a certificate thereon showing the result of such election, to the officer provided by law to whom such return shall be made, within ten days after such election shall have been held, the said judges of election shall be severally liable to a penalty of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), to be recovered in the name of the People of the State of Illinois, by an action of debt before any justice of the peace of the county; which penalty, when collected, shall be paid into the school fund of the township in which such election was held.

277. Directors. § 3. It shall be the duty of the board of directors of every school district in this state, to deliver to the township treasurer all teachers' schedules made and certified as required by law, and covering all time taught during the school year ending June 30th, on or before the 7th day of July, annually; and the directors shall be personally liable to the district for any and all loss sustained by it through their failure to examine and deliver to the said township treasurer all such schedules within the said time.

278. Treasurer—Release. § 4. For any failure or refusal to perform all the duties required of the township treasurer by law, he shall be liable to the board of trustees, upon his official bond, for all damages sustained by reason of such failure or refusal, to be recovered by action of debt by said board, in their corporate name, for the use of the proper township, before any court having jurisdiction of the amount of damages claimed; but if the said treasurer, in any such failure or refusal, acted under and in conformity to a requisition or order of said board, or a majority of them, entered upon their journal and subscribed by their president and clerk, then, and in that case the members of said board aforesaid, or those of them voting for such requisition or order aforesaid, and not the

said township treasurer, shall be liable, jointly and severally, to the inhabitants of the township for all such damages, to be recovered by an action of assumpsit in a suit brought in the official name of the county superintendent of schools, for the use of the proper township; *Provided*, said treasurer shall be liable for any loss not collected by reason of the insolvency of said trustees.

279. Treasurer, on resignation, etc. § 5. When a township treasurer shall resign or be removed. and at the expiration of his term of office, he shall pay over to his successor in office, when appointed, all money on hand, and deliver over all books, notes, bonds, mortgages, and all other securities for money, and all papers and documents of every description in which the corporation has any interest whatever; and in case of the death of the township treasurer, his securities and legal representatives shall be bound to comply with the requisitions of this section so far as the said securities and legal representatives may have the power so to do. And for any failure to comply with the requisitions of this section, the persons neglecting or refusing shall be liable to a penalty of not less than ten (10) nor more than one hundred dollars ($100), at the discretion of the court before which judgment may by obtained, to be recovered in an action of debt before any justice of the peace, for the benefit of the school fund of such township; *Provided*, that the obtaining or payment of such judgment shall in no wise discharge or diminish the obligation of the persons signing the official bond of such township treasurer.

280. Any school officer for conversion of funds. § 6. If any county superintendent, trustee of schools, township treasurer, director or any other person entrusted with the care, control, management or disposition of any school, college, seminary or township fund for the use of any county, township, district or school, shall convert such funds, or any part thereof, to his own use, he shall be liable to indictment, and upon conviction thereof, shall be fined in any sum not less than double the amount of money converted to his own use, and imprisoned in the county jail not less than one nor more than twelve months, at the discretion of the court.

281. Trustees for insufficiency of treasurer's bond. § 7. Trustees of schools shall be liable jointly and severally, for the sufficiency of securities taken from township treasurers; and in case of judgment against any treasurer and his securities for or on account of any default of such treasurer on which the money shall not be made for want of sufficient property, whereon to levy execution, action on

the case may be maintained against said trustees, jointly and severally, and the amount not collected on said judgment shall be recovered with costs of suit from such trustees; *Provided*, that if said trustees can show, satisfactorily, that the security taken from the treasurer, as aforesaid, was at the time of said taking, good and sufficient, they shall not be liable as aforesaid.

282. Lien on real estate of school officers. § 8. The real estate of county superintendents, of township treasurers and all other school officers, and of the securities of each of them shall be bound for the satisfaction and payment of all claims and demands against said superintendents and treasurers, and other school officers as such from the date of issuing process against them, in actions or suits brought to recover such claims or demands until satisfaction thereof be obtained; and no sale or alienation of real estate, by any superintendent, treasurer or other officer or security aforesaid, shall defeat the lien created by this section, but all and singular such real estate held, owned or claimed, as aforesaid, shall be liable to be sold in satisfaction of any judgment which may be obtained in such actions or suits.

Real Estate of School Officers held. By this provision of the law it is made impossible for any school officer or his sureties to evade any liability to any school fund by disposing of his real estate after suit has been begun against him. The lien attaches, if judgment is rendered, from the date of issuing process. [*Snyder* v. *Spaulding*, 57 Ill., 480.]

283. Trustees for failure to make returns—For false returns. § 9. Trustees of schools, or either of them, failing or refusing to make returns of children in their township according to the provisions of this act, or if either of them shall knowingly make a false return, the party so offending shall be liable to a penalty of not less than ten dollars ($10) nor more than one hundred dollars ($100), to be recovered by an action of assumpsit, before any justice of the peace of the county; which penalty, when collected, shall be added to the township school fund of the township in which said trustees reside.

284. Any officer for failure to return statistics—For failure to perform duties. § 10. If any county superintendent, director or trustee, or either of them, or other officer whose duty it is, shall negligently or wilfully fail or refuse to make, furnish or communicate the statistics and information or shall fail to discharge the duties

enjoined upon them or either of them at the time and in the manner required by the provisions of this act, such delinquent or party offending, shall be liable to a fine of not less than twenty-five dollars ($25), to be recovered before any justice of the peace at the suit of any person, on information, in the name of the People of the State of Illinois, and when collected, the said fine shall be paid to the county superintendent of the proper county for the use of the school fund.

Penalty recovered on Information. In any suit to recover a fine imposed under the last part of this section, the "information" required need not be in writing, nor is it necessary that it should run in the name of the People of the State of Illinois. It is sufficient if the process which brings the defendant into court runs in the name of the People. The word "information," as used in this section, means "complaint." [*Newton* v. *People*, 72 Ill., 507.]

285. Any school officer for loss of funds. § 11. County superintendents, trustees of schools, directors and township treasurers, or either of them, or any other officer having charge of school funds or property, shall be pecuniarily responsible for all losses sustained by any county, township or school fund, by reason of any failure on h s or their part to perform the duties required of him or them by the provisions of this act; or by any rule or regulation authorized to be made by the provisions of this act; and each and every one of the officers aforesaid shall be liable for any such loss sustained as aforesaid, and the amount of such loss may be recovered in a civil action brought in any court having jurisdiction thereof, at the suit of the State of Illinois, for the use of the county, township or fund injured; the amount of the judgment obtained in such suit shall, when collected, be paid to the proper officer for the benefit of the said county, township or fund injured.

Liability for Loss or Misuse of Funds. If school officers squander or misuse or lose school funds, this section affords a complete remedy at law against them. [*Moore* v. *Fessenbeck*, 88 Ill., 422.]

286. Funds may not be used for sectarian purposes. § 12. No county, city, town, township, school district or other public corporation shall ever make any appropriation, or pay from any school fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, uni-

versity or other literary or scientific institution controlled by any church or sectarian denomination whatever; nor shall any grant or donation of money, or other personal property, ever be made by any such corporation to any church or for any sectarian purpose; and any officer or other person having under his charge or direction school funds or property, who shall pervert the same in the manner forbidden in this section, shall be liable to indictment, and upon conviction thereof, shall be fined in a sum not less than double the value of the property so perverted, and imprisoned in the county jail not less than one (1) nor more than twelve (12) months, at the discretion of the court.

Sectarian Appropriations, etc. On this subject, see Art. 8, § 3, Const. 1870, p. 10; **147**, (f), 1; **146**, (c), 2.

287. No school officer may be interested in sale of books, etc. § 13. No teacher, state, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used, or to be used, in any school in this state, with which such officer or teacher may be connected; and for offending against the provisions of this section such teacher, state, county, township or district school officer shall be liable to indictment, and upon conviction shall be fined in a sum not less than twenty-five dollars ($25), nor more than five hundred dollars ($500), and may be imprisoned in the county jail not less than one (1) month, nor more than twelve (12) months, at the discretion of the court.

School Officers prohibited from selling Books, etc. The township school treasurer is included in this prohibition, since he is a school officer. See, also, Art. 8, § 4, Const. Ill., 1870.

288. Liability of any school officer for exclusion from a public school of any child on account of color. § 14. Any school officer or officers, or any other person, who shall exclude or aid in the exclusion from the public schools, of any child who is entitled to to the benefits of such school, on account of such child's color, shall be fined, upon conviction, in any sum not less than five dollars ($5), nor more than one hundred dollars ($100) each, for every such offense.

ARTICLE 16.

MISCELLANEOUS.

§ 1. Costs of suits not to be charged to school fund.
§ 2. Eligibility of women to school offices.
§ 3. Bonds of women holding school offices.
§ 4. Colored children may not be excluded from school.
§ 5. Penalty for preventing children from attending school.
§ 6. Payment of funds to township treasurer.
§ 7. Special acts not repealed; statistics to be reported by school officers.
§ 8. Educational institutions to report to state superintendent.
§ 9. Judgment and executions against boards of trustees and directors
§ 10. No compensation allowed to trustees, directors, etc.; exemption from road labor, etc.
§ 11. School officers to hold until their successors are qualified.
§ 12. Former acts repealed.
§ 13. Emergency clause.

289. Costs. SECTION 1. No justice of the peace, constable, clerk of any court, sheriff or coroner shall charge any costs in any suit where any school officer, school corporation or any agent of any school fund, suing for the recovery of the same, or any interest due thereon, is plaintiff and shall be unsuccessful in such suit; nor where the costs can not be recovered from the defendant by reason of the insolvency of such defendant.

1. *Costs of Suit to recover School Fund.* In suits brought for the recovery of any debt due the school fund, counsel may be employed when necessary, and a reasonable fee be allowed from the proper school fund. When such suits are unsuccessful no costs can be charged by any court before which the case is tried, nor by any constable, sherff, etc. The clause, being restrictive of the common rule in respect to costs, must be limited, in construction to the particular cases described. It is not meant to grant immunity from costs where suits are brought and judgments rendered against school officers or their agents, but only when actions are commenced by them, and are not successful.

2. *Suits against School officers personally.* All suits brought against school directors, school trustees and other school officers individually, must be defended by such officers at their own expense. Judgments and costs, if entered against school officers in such cases, must be paid by them. It would be a misappropriation of school funds to use them for such a purpose.

290. Women eligible to school offices. § 2. Any woman, married or single, of the age of twenty-one years and upwards, and possessing the qualifications prescribed for the office, shall be eligible to any office under the general or special school laws of this state.

291. To give bonds, etc. § 3. Any woman elected or appointed to any office under the provisions of this act, before she enters upon the discharge of the duties of the office, shall qualify and give the bond required by law (if a bond is required) and such bond shall be binding upon her and her securities.

292. Children not to be excluded from schools on account of their color. § 4. All boards of school directors, boards of education, or school officers, whose duty it now is, or may be hereafter, to provide in their respective jurisdictions, schools for the education of all children between the ages of six and twenty-one years, are prohibited from the excluding, directly or indirectly, any such child from such school on account of the color of such child.

Rights of Colored Children. In a case which came before the supreme court before this section was added to the law it was held that:

"The free schools of the state are public institutions, and in their management and control the law contemplates that they should be so managed that all children within the district between the ages of six and twenty-one years, regardless of race or color, shall have equal and the same right to participate in the benefits to be derived therefrom.

"While the directors, very properly, have large and discretionary powers in regard to the management and control of schools, in order to increase their usefulness, they have no power to make class distinctions, neither can they discriminate between scholars on account of their color race or social position."

And, after saying that in this case the sole object of the directors seems to have been to exclude the colored children from the benefits of free schools, and that the question of separate schools with equal facilities when there were white children enough for one school, and colored children enough for another was not passed upon, the court adds:

"But the conduct of the directors in this case in the attempt to keep and maintain a school solely to instruct three or four colored children of the district, when they can be accommodated at the school house with the other scholars of the district, can only be regarded as a fraud

upon the tax-payers of the district, any one of whom has a right to interfere to prevent the public funds from being squandered in such a reckless unauthorized manner." [*Chase* v. *Stephenson*, 71 Ill., 383.]

In *The People* v. *Board of Education*, 101 Ill., 308, it appeared from the information that the board of education of the city of Quincy had divided the city into eight school districts, in each of which colored children resided; that under the rules adopted, these colored children were excluded from the public schools in the district where they resided, and were required to attend a school composed exclusively of colored children, known as the Lincoln school, and that, under the operation of these rules, a colored child could not attend the school in the district where such child resided on account of its color, but was compelled to travel several miles, perhaps, to a distant part of the city to a colored school. Upon this state of facts the court held:

"This is a direct violation of the statute, which says the board is prohibited from excluding directly or indirectly, any such child from such school on account of color. Under the rules no reason is assigned which prohibits a colored child from attending the school in the district where it resides, except on acconnt of its color.

"Whether our constitution, and the acts of the legislature passed in pursuance of it which place all children, regardless of color, upon a perfect equality so far as admission into the public schools is concerned, are to be regarded as wise or unwise legislation, is a matter with which courts have no concern. We are bound to declare the law as we find it written, and if it is not satifactory to any section of the state, the remedy is in the legislative department of the government, and there alone.

"In conclusion, we are of opinion that the board of education of the city of Quincy had no authority to adopt and enforce the rules set out in the information."

See also *People* v. *Board of Education*, 127 Ill., —.

293. Penalty for preventing by menace, etc., any child from attending a public school. § 5. Any person who shall, by threats, menace or intimidation, prevent any child entitled to attend a public school in this state from attending such school shall, upon conviction, be fined in any sum not exceeding twenty-five dollars ($25.00).

294. Report of moneys paid to treasurer. § 6. It shall be the duty of the county treasurers, county superintendents of schools, township collectors, and all other persons paying money into the hands of township school treasurers, for school purposes, on or before the 30th day of September of each year, to notify in writing the presidents of boards of school trustees, and the clerks of the boards of school directors, of the amount paid into the township treasurer's hands, and the date of payment.

295. Special laws not changed. § 7. This act shall not be so construed as to repeal or change, in any respect any special acts in relation to schools in cities having less than one hundred thousand inhabitants, or incorporated towns, townships or districts, except that it shall be the duty of the several boards of education, or other officers of any city or incorporated town, township or district, having in charge schools under the provisions of any of said special acts, or of any ordinance of any city or incorporated town, on or before the 15th day of July preceding each regular session of the general assembly of this state, or annually, if required so to do by the state superintendent of public instruction, to make out and render a statement of all such statistics, and other information in regard to schools and the enumeration of persons, as is required to be comunicated by township boards of trustees or directors, under the provisions of this act, or so much thereof as may be applicable to said city or incorporated town, to the county superintendent of the county where such city or incorporated town is situated, or of the county in which the larger part of such city or incorporated town is situated; nor shall it be lawful for the county superintendent, or any other officer or person, to pay over any portion of the common school fund to any local treasurer, school agent, clerk, board of education, or other officer or person of any township, city or incorporated town, unless a report of the number of persons, and other statistics relative to schools, and a statement of such other information as is required by the board of trustees or directors, as aforesaid, and of other school officers and teachers, under the provisions of this act, shall have been filed at the time or times aforesaid, specified in this section, with the superintendent of the proper county, as aforesaid.

1. *Special School Laws in City Charters and in Separate Acts.* When certain sections in a city charter make the city a school district and require the city officers to perform certain duties in relation to schools, the district and

the officers are to be regarded as the agencies chosen by the state to provide a system of free schools, and there are, in fact, two separate and distinct corporations with different purposes and objects. The one has its existence and is limited in the powers it may exercise by its charter proper; the other, by the school law. The laws on the subject of schools, whether in city charters, in amendments to charters or in separate acts not purporting to be a part of a charter, may be regarded as school laws—as part of the law intended to provide a system of free schools. [*Speight* v. *People*, 87 Ill., 595; *Fuller* v. *Heath*, 89 Ill., 296.]

Two conclusions follow from the principles laid down by the supreme court in these cases: (1) When the same charter creates a municipal corporation and a school corporation, the organization of the municipal corporation under the general law in relation to cities operates as a repeal of the municipal charter proper, but does not modify or repeal the part of the charter relating to schools. [*Fuller* v. *Heath*, 89 Ill., 296.]

2. Since the special school law constitutes a part of the law intended to provide a system of free schools, it and the general law must be construed together. The school board under the special law is still subject to the general law, except in so far as the provisions of the special are different from those of the general law. Thus, in *Board of Education* v. *Arnold*, 112 Ill., 11, the supreme court held that the school board of Galesburg, though given by its special law exclusive management and control of the schools of the district, inasmuch as it was not given power to examine teachers and grant them certificates, might lawfully employ such teachers only as held certificates granted under the general law.

3. *Special School Laws given up.* By **171** a way is provided by which a school organization under a special law may be abandoned and the district brought altogether under the general law; and the course there laid down is the only way provided by law for this purpose. It must be followed both when the schools are organized under a separate law and when they are under a law which stands on the statute book as a part of a city charter.

4. *Special District may not be changed by School Trustees.* When a district is established and its territory defined by an act of the legislature, unless it is so provided by the terms of the act, the trustees of schools may not change the boundaries of such district. [*Shaefer* v. *People*, 20 Ill., App. (20 Brad.), 605.]

5. *Treasurer of Special District.* When a special district has its own treasurer, according to its special law, he must, as a condition of receiving money from them, give the county superintendent or the township treasurer from whom he is to receive funds satisfactory evidence that he has been elected or appointed, and has given bond as the special law requires.

6. *Residents of a Special District may not vote for Trustees.* It is held that when a school district is created by a special act of the legislature, out of territory situated in one or more congressional townships, and a special school board is created, with corporate powers, the inhabitants of such special district can not vote at the regular township elections for township school trustees. The private law conferring corporate powers upon a portion of a township, negatives the right of the inhabitants to be regarded as a part of the body politic of the school township. In a similar case in the city of Galena, the court decided that the inhabitants had no right to vote for school purposes outside of the city limits.

7. *Tax Levy in Special Districts.* Usually special school laws contain some provisions with regard to taxation for school purposes. These are modified by **202.** See also, **202**, *note* 2.

8. *General Law regarding Special Districts.* See **241, 313-316.**

9. *Reports of Special Districts.* Whether a special district should report to the county superintendent or to the township treasurer is usually determined by the special act under which it has been organized. If it reports as a district, to the treasurer, it should make its report on or before July 7th [**146,** *eleventh,*]; but if it reports as a township, to the county superintendent, it should report on or before July 15th. [**57.**]

This is necessary in order that the reports of the trustees and the county superintendent may be made at the time named in the statute. If a special district reports to the county superintendent and yet receives funds from the trustees, it must give the trustees official notice every year that it has had a legal school, and state what number of persons under twenty-one years of age it has.

296. Incorporated schools to report. § 8. It shall be the duty of the president, principal, or other proper officer of every organized university, college, seminary, academy, or other literary institution, heretofore incorporated, or hereafter to be incorporated in this state, to make out, or cause to be made out and forwarded to the office of the state superintendent of public instruction, on or before the first day of August in each year, a report setting forth the amount and estimated value of real estate owned by the corporation, the amount of other funds and endowments, and the yearly income from all sources; the number of instructors, the number of students in the different classes, the studies pursued and the books used; the course of instruction, the terms of tuition, and such other matters as may be specially requested by said superintendent, or as may be deemed proper by the president or principal of such instituton to enable the superintendent of public instruction to lay before the legislature a fair and full exhibit of the affairs and conditions of said institutions, and of the educational resources of the state.

297. Judgments how enforced. § 9. If judgment shall be obtained against any township board of trustees or school directors, the party entitled to the benefit of such judgment may have execution therefor, as follows, to-wit: It shall be lawful for the court in which such judgment shall be obtained or to which such judgment may be removed by transcript or appeal from a justice of the peace, or other court, to issue thence a writ, commanding the directors, trustees and treasurer of such township, to cause the amount thereof, with interest and costs, to be paid to the party entitled to the benefit of such judgment, out of any moneys unappropriated of said township or district, or if there be no such moneys, out of the first moneys applicable to the payment of the kind of services or indebtedness, for which such judgment shall be obtained, which shall be received for the use of such township or district, and to enforce obedience to such writ by attachment, or by *mandamus*, requiring such board to levy a tax for the payment of such judgment; and all legal processes, as

well as writs to enforce payment, shall be served either on the president or clerk of the board.

1. *Judgments, how satisfied.* A general execution does not lie against a school board. [*Thomas* v. *Urbana District*, 71 Ill., 283; *Watson* v. *Abry*, 9 Ill. App. (9 Brad.), 280.]

When directors are sued, in their corporate name, and judgment is obtained against them, said judgment must be paid out of the funds belonging to the district; it can not be satisfied out of the unapportioned township funds. The same is true where a *mandamus* is issued, directed against the trustees, treasurer and directors, which is the usual form. It can not be supposed that a judgment against a single district should be satisfied out of funds not yet apportioned by the trustees to the several districts; this would make all the districts contribute to the payment of the debts of one. Every district is liable exclusively for its own debts.

2. *Moneys not to be diverted.* Even in satisfaction of a judgment, moneys raised for a particular purpose may not be used for another purpose. [*Pennington* v. *Coe*, 57 Ill., 118.]

3. *Mechanic's Lien—Garnishment.* A mechanic's lien may not be taken against school property, nor may a school board or a school treasurer be garnisheed. [*Quinn* v. *Allen*, 85 Ill., 39; *Merwin* v. *Chicago*, 45 Ill., 133; *Bivens* v. *Harper*, 59 Ill., 21.]

4. *Bonds on Appeals.* School boards do not give bonds on appeals. [*Holmes* v. *Mattoon*, 111 Ill., 27.]

5. *Judgment fraudulently obtained.* Persons accepting positions as members of a school board of directors or trustees, or other school offices, should not allow their private interest to conflict with public duty. Equity and good faith will require them to defend suits against their district or township and to protect its property, to the best of their skill and ability, regardless of any private interest they may have. A decree obtained against a school corporation by collusion with or neglect by its officers may be impeached for fraud. [*Noble* v. *Directors*, 117 Ill., 30; *Nevil* v. *Clifford*, 55 Wis., 161.]

298. Compensation of trustees, directors, and members of boards of education. § 10. Trustees of schools, school directors, members of boards of education, or other school officers performing like duties, shall receive no pecuniary compensation, but they shall be exempt from road labor and from military duty during their term of office.

1. *Compensation of Trustees and Directors.* The law makes no provision for paying trustees and directors beyond granting them exemptions from road labor and military duty. They may not, therefore, be paid for any official service; for a public officer can not be paid except as the law provides for any services required of and performed by him. [*Bruner* v. *Madison County*, 111 Ill., 11.]

The only exception to this is, that the clerk of the board of directors may be paid for clerical services. [**147**, *second.*]

2. *Exemption.* The phrase "or other school officers performing like duties" includes members of boards of education under special laws, but does not include school treasurers; for their duties are not "similar to those of directors and trustees," and, besides, the statute gives them compensation.

The exemption from "road labor" does not mean exemption from road tax. [*McDonald* v. *Madison County*, 43 Ill., 22.]

299. School officers now in office to hold. § 11. All school officers elected in pursuance of any general law now in force shall hold their respective offices until their successors are elected and qualified under the provisions of this act.

300. Repealing clause. § 12. [Omitted.]

301. Emergency clause. § 13. [Omitted.]

[APPROVED May 21, 1889.]

ADDITIONAL ACTS PERTAINING TO THE PUBLIC SCHOOLS AND TO SCHOOL OFFICERS.

COMPULSORY EDUCATION.

§ 1. The persons required to send children to school; age of compulsory attendance; penalty; exemptions.
§ 2. Truant officer; duties and compensation.
§ 3. Penalty for making a false statement as to the age of children.
§ 4. Prosecutions; how carried on.
§ 5. Jurisdiction.
§ 6. Repealing clause.

An Act Concerning the Education of Children.

302. Children between 7 and 14—Penalty—Exceptions. SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That every person having under his control a child between the ages of seven and fourteen years, shall annually cause such child to attend for at least sixteen weeks, at least eight weeks of which attendance shall be consecutive, some public day school in the city, town or district, in which he resides, which time shall commence with the beginning of the first term of the school year, or as soon thereafter as due notice shall be served upon the person having such control, of his duty under this act. For every neglect of such duty, the person offending shall forfeit, to the use of the public schools of such city or district, a sum not less than one nor more than twenty dollars, and shall stand committed until such fine and costs of suit are paid. But if the person so neglecting, shall show to the satisfaction of the board of education or of directors, that such child has attended for a like period of time, a private day school, approved by the board of education or directors of the city, town or district in which such child resides, or that instruction has otherwise been given for a like period of time to such child, in the branches commonly taught in the public school; or that such child has already acquired the branches of learning taught in the public schools, or that his physical or mental condition, as declared by a competent physician, is such as to render such attendance inexpedient and impracticable, then such penalty shall not be incurred. Such fine shall be paid, when collected, to the school treasurer of such city or township, to be accounted for by him as other school money raised for school purposes. But no school shall be regarded as a school under this act unless there shall be taught therein in the English language, reading, writing, arithmetic, history of the United States and geography.

303. Truant officers. § 2. It shall be the duty of the board of education in every city and the board of school directors in every school district, to appoint one or more truant officers, whose duty it shall be, carefully to enquire concerning all supposed violations of this act, and to enter complaint against all persons who shall appear to be guilty of such violation. It shall also be the duty of said officer to arrest children of a school-going age, who habitually haunt public places, and have no lawful occupation, and also truant children who absent themselves from school without leave, and to place them in charge of the teacher

having charge of the public school which the said children are by law entitled to attend. And it shall be the duty of said teacher to assign said children to the proper classes, and to instruct them in such studies as they are fitted to pursue. Said truant officers shall have such compensation for services rendered, under this act, as shall be determined by the board of education or the board of directors appointing such officer, which compensation shall be paid from the distributable school fund.

304. Penalty for evasion of law. § 3. Any person having control of a child, who with intent to evade the provisions of this act, shall make a willful false statement concerning the age of such child, or the time such child has attended school, shall, for such offense, forfeit a sum of not less than three dollars nor more than twenty dollars for the use of the public schools of such city or district.

305. Prosecutions. § 4. Prosecutions under this act shall be instituted and carried on by the authorities of such boards, and be brought in the name of the People of the State of Illinois for the use of the school fund of said city or township.

306. Police, courts etc., given jurisdiction. § 5. Police, municipal courts, justices of the peace and judges of the county court, shall have jurisdiction within their respective counties of the offenses described in this act.

307. Repeal. § 6. "An act to secure to all children the benefit of an elementary education," approved June 23, 1883, in force July 1, 1883, is hereby repealed.

[Approved May 24, 1889.]

PHYSIOLOGY AND HYGIENE.

An Act relating to the Study of Physiology and Hygiene in the Public Schools.

308. Instruction in physiology and hygiene. Section 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That the proper legal school authorities shall have power, and it shall be their duty, to have all pupils of suitable age in schools of Illinois, supported by public money or under state control, instructed in physiology and hygiene, with special reference to the effects of alcoholic beverages, stimulants and narcotics on the human system.

309. Certificate. § 2. No certificate shall be granted to any person to teach in the public schools of Illinois, after July, 1890, who has not passed a satisfactory examination in physiology and hygiene, with special reference

to the effects of alcoholic beverages, stimulants and narcotics on the human system.

[APPROVED June 1, 1889.

COMPENSATION OF JUDGES AND CLERKS OF ELECTION IN CERTAIN CASES.

An Act to provide for the Compensation of Judges and Clerks of Elections at Elections at which Trustees of Schools and School Directors are elected under the Provisions of an Act entitled "An Act to regulate the holding of Elections and declaring the Result thereof in Cities, Villages and incorporated Towns in this State," approved June 19, 1885.

310. Expenses of election of trustee. SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That at all elections held under the provisions of an act entitled "An act to regulate the holding of elections and declaring the result thereof in cities, villages and incorporated towns in this state," approved June 19, 1885, and those amendatory and supplemental thereto, at which any trustee of school may have been heretofore or shall hereafter be elected, the expenses of such election shall be paid out of the treasury of such city, village and incorporated town.

311. Expenses of election of director. § 2. That all elections held under the provisions of said acts, at which a school director is elected, the expenses of such election shall be paid out of any funds belonging or appertaining to the district for which such director is elected.

312. Levy for expenses. § 3. The corporate authorities of cities, villages, incorporated towns and school districts are hereby authorized and empowered to levy taxes for the purpose of paying such election expenses.

[APPROVED June 3, 1889.]

Application of Act limited. This act is of very limited application. Up to this time the act of June 19, 1885, concerning elections, has been adopted in East St. Louis, and Chicago. Judges of school elections held in all other places are not entitled under the law to any compensation for their service.

MEMBERS OF THE BOARD OF EDUCATION APPOINTED.

An Act to provide for the Appointment of School Directors and Members of the Board of Education, in certain Cases, approved May 29, 1879, in force July 1, 1879.

313. Cases in which the law applies. SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That in all cases whereby [where, by] the provisions of any general or special law of this state heretofore passed, the members of the common council of any city have been made *ex officio* school directors, or members of the board of education in and for the school district of which the said city shall constitute the whole or a part, the said school directors or members of the board of the board of education shall hereafter be appointed as hereinafter provided.

Correction—Statute applies when. The word "whereby" in this section is evidently wrongly written for "where, by."

The law applied to every city in which the common council were, by reason of any special law, acting as the school board of the city. It was held also to apply to those cities in which, by virtue of a special law, the common council was given the control of the schools with authority to appoint a school board and determine its powers and duties by ordinance; since in such cases the common council could, by reducing the powers of the school board to a minimum, itself manage the schools, which would be contrary to the intent of this law, the purpose of which was to withdraw the public schools from the control of city councils in all cases.

314. Appointments made. § 2. It shall be the duty of the mayor of such city, at the first regular meeting of the city council after each annual municipal election, and after his installation into office, to nominate and place before the council, for confirmation as school directors or members of the board of education, as the case may be, one person from each ward of said city to serve for two years, and one person from the city at large to serve for one year, and if the persons so appointed shall be confirmed by a majority vote of the city council, to be entered of record, the persons so appointed, together with such persons theretofore appointed under the provisions of the act, to which this is an amendment, whose terms of service shall not expire within one year, shall constitute the board of education or school directors for such district;

Provided, that the person appointed from the city at large for one year shall be president of said board of education or school directors, but shall have no vote in said board excepting in case of a tie; *And provided further*, that the term of office of all persons heretofore appointed under the provisions of the act, to which this is an amendment, whose term of office expires within one year, shall terminate at the first regular meeting of the city council after the annual meeting, and upon the appointment and confirmation of their successors. [As amended by act approved and in force May 28, 1889.]

315. Organization. § 3. The said persons shall, as soon as practicable after their appointment, organize by electing one of their number secretary, who shall hold his office for one year. All rights, powers and duties heretofore exercised by and devolved upon the members of the city council, as *ex officio* members of the board of education or school directors, shall devolve upon and be exercised by the members of the board of education and school directors appointed under the provisions of this act. [As amended by act approved and in force May 28, 1889.]

316. Tax levy. § 4. In all school districts to which this act shall apply, the boards of education or school directors shall, annually, before the first day of August, certify to the city council, under the hands and seals of the president and secretary of the board, the amount of money required to be raised by taxation for school purposes in said district for the ensuing year, and the said city council shall thereupon cause the said amount to be levied and collected in the same manner now provided by law for the levy and collection of taxes for school purposes in such district, but the amount to be so levied and collected shall not exceed the amount now allowed to be collected for school purposes by the general school laws of this state; and when such taxes have been collected and paid over to the treasurer of such city or school district, as may be provided by the terms of the act under which such district has been organized, such funds shall be paid out only on the order of the board of education or the school directors, signed by the president and secretary of such board.

[APPROVED May 29, 1879.]

FORMS, CALENDAR AND TABLE OF CASES.

FORMS.

Form 1. COUNTY SUPERINTENDENT'S BOND. [9.]

Use always form in **9** of the school law.

Form 2. NOTICE OF PAYMENT OF MONEY TO TOWNSHIP TREASURER. [19.]

To the President of the Trustees of Township....., range.....

I have this.....day of ....., 18...., paid your treasurer.....100 dollars, being the amount apportioned to your township by me.

.....

County Superintendent of Schools in .....County.

NOTE. This form can be used to report payments by other officers, and also to make a report to clerks of school boards.

Form 3. RECEIPT OF COUNTY SUPERINTENDENT. [26.]

$.... ....., *Ill.*, ..., 18....

Received of....., county superintendent of.....county, the sum of .....100 dollars, being the amount apportioned for the year 18.... to township No....., range....., in said county by said county superintendent.

....., *Township Treasurer.*

Form 4. NOTE TO COUNTY SUPERINTENDENT. [27.]

Use form No. 24, with needed changes.

Form 5. MORTGAGE TO COUNTY SUPERINTENDENT. [27.]

Use always, with necessary changes, form in **105.**

Form 6. CERTIFICATE OF COUNTY SUPERINTENDENT IN APPEALS. [28.]

OFFICE OF THE COUNTY SUPERINTENDENT OF SCHOOLS.

....., *Ill.*, ...18....

To....., Superintendent of Public Instruction:

SIR: There is transmitted herewith a statement of the case, and the documents presented to me, in the controversy between ... . and ....., together with my decision thereon, from which an appeal has been taken to you.

I certify that the statement is full and correct.

.....

County Superintendent of Schools for ..... County.

Form 7. NOTICE OF ELECTION OF TOWNSHIP TRUSTEE. [37.]

Use always form in **37.**

NOTE.—If more than one trustee is to be elected, consult **42,** note 1, before drawing the notice.

Form 8. POLL BOOK OF ELECTION OF TOWNSHIP TRUSTEE. [49.]

Poll book of election held at....., in township....., range....., county of ..... and State of Illinois, on Saturday, the ..... day of ....., 18....

I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of judge of election (or clerk, as the case may be), according to the best of my ability.

Subscribed and sworn to before me this ..... day of ....., 18....

.....

NOTE.—Each judge and the clerk must take the oath. [**40,** *note.*]

No.	Names of Voters.

Form 9. TALLY SHEET OF ELECTION OF TOWNSHIP TRUSTEE. [49.]

Tally list of an election held at ....., in township ....., range ....., in the county of ....., Ill., for school trustee for said township, on the ..... day of ....., 18....

Names of persons voted for.	Tallies.

Form 10.—Return of Election of Township Trustee. [49.]

At an election held at ....., in township ....., range ....., in the county of ....., Ill., on the ..... day of ....., 18...., the following persons received the number of votes set opposite to their respective names, for the office of school trustee of said township:

Names of persons voted for.	Whole number of votes cast for each person.

Certified by us,

.....
.....
..... } *Judges of Election.*

Attest,

....., *Clerk of Election.*

Form 11. Notice of Special Meeting of Trustees. [54.]

To .....

Sir: There will be a special meeting of the trustees of schools of township..... ....., range ....., at ..... on the ..... day of ....., 18...., at the hour of ..... o'clock, ...M., to attend to the following business.

[Here insert business to come up.]

....., *Ill.*, ..., 18....

.....
President.

Note.—The notice may be given by two trustees.

Form 12. Notice of Sale for School Site. [61.]

Use always form in **61.**

Form 13. Notice of Election for Township High School. [67.]

Use always form in **67.**

Form 14. Petition by majority of legal voters of a district. [77.]

We, the undersigned, being a majority of the legal voters in district No....., in township....., range....., in.....county, petition the trustees of schools of said township to divide said school district along a line beginning [here give line of division], making two districts thereof; and we declare that each of the new districts will have not less than ten families living in it. [Here should follow names.]

Note.—If the district runs into two townships, the petition must be addressed to both boards of trustees, and must be drawn and signed in duplicate, so that it may be presented to each board.

With necessary changes to express the different purpose, this form may be used when a majority of the legal voters of a district wish to petition to have their district consolidated with another district; or to have a portion of their territory set off to another district; or to have a portion of their territory together with other territory made a new district. But the clause with regard to number of families should not be retained except in the last case.

This form can be used by the voters of two or more districts. In such case it should begin: "We, the undersigned, being a majority of the legal voters in each of these school districts, namely, district No....., in township..... range....., and district No....., in township....., range....," etc.

Form 15. Petition by two-thirds of Legal Voters for a New District. [77.]

We, the undersigned, being two-thirds of the legal voters in the territory herein described, petition the trustees of schools of township....., range ....., in.....county, to make a new school district of this territory, namely. [Here describe the territory.] And we declare that said district will not have less than ten families resident in it, and that no district from which the territory will be taken will be left with less than ten families. [Here should follow names.]

Note.—If the districts affected by the proposed change do not all lie in the same township, then the petition must be addressed to the two, three or four boards, and two, three or four petitions, one for each board, must be drawn up and signed.

Form 16. PETITION OF TWO-THIRDS OF LEGAL VOTERS TO HAVE TERRITORY IN WHICH THEY LIVE SET OFF FROM ONE DISTRICT TO ANOTHER. [77.]

We, the undersigned, being two-thirds of the legal voters living in the territory herein described, petition the trustees of schools of township.....,range ....., in.....county to detach this territory, namely: [Here describe territory] from district No....., township ....., range.....and add it to district No.....in township.....,range.....

[Here should follow names.]

NOTE.—The directions given in note to No. 15, must be followed here.

Form 17. NOTICE OF PETITION TO DISTRICTS AFFECTD. [79.]

Use the form given in **79**, and append to it a copy of the petition, including the names.

Form 18. CERTIFICATE OF DELIVERY OF NOTICE. [79.]

To the Trustees of Schools of Township.....range.....in.....County.

I hereby certify that on the.....day of.....18...., I served..... president (or clerk) of the directors of school district No.....township..... range..... ....in.....county with a copy of a petition [here insert a description of the petition sufficient to designate it clearly] and with the notice in regard to the same which is required by **79**.

.....

Form 19. NOTICE OF APPEAL. [83.]

Use always form in **83**.

Form 20. NOTICE OF ELECTION IN A NEW DISTRICT. [88.]

Use always form in **88**.

Form 21. TOWNSHIP TREASURER'S BOND. [99.]

Use always the form given in **99**.

NOTE.—The treasurer's bond must be acknowleged *by him and by each of his sureties* before some officer authorized by law to take acknowledgments. Notaries public and justices of the peace are so authorized. The bond should be acknowledged before approval by the trustees. The form of acknowledgment prescribed is as follows:

STATE OF.....} ss.
COUNTY OF.....}

I,.....hereby certify that....., who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand.....seal, this.....day of.....A. D.,.....

Form 22. RECORD OF NOTES. [100.]

Use form given in **100**.

Form 23. NOTE TO TRUSTEES OF SCHOOLS. [102.]

.....Ill., ..., 18....

$.....

.....after date, for value received, we jointly and severally promise to pay to the trustees of schools of township....., range....., in..... county. the sum of.....100 dollars and interest thereon, at the rate of.....per cent. per annum from date, payable annually. And we further agree to give any additional security which said trustees of schools may at any time require; and no extension of the time of payment, with or without our knowledge, by the receipt of interest or otherwise, shall release us or either of us from the obligation to pay this note.

.....
.....
.....

Form 24. MORTGAGE TO TRUSTEES OF SCHOOLS. [105.]

Use always form in **105**.

Form 25. DEMAND FOR ADDITIONAL SECURITY. [107.]

To.....

SIR: By order of the trustees of schools of township.....range..... I hereby require you to give additional security for the money loaned you from the school fund of said township.

.....

.....*Ill.*, ...18... *Township Treasurer.*

Form 26. Treasurer's Semi-annual Exhibit to Directors. [114.]

Statement of the township treasurer of township....., range.....to the directors of district No.....in said township:

[Here insert a statement of receipts and expenditures in detail, for six months beginning with balance shown in last report and closing with balance on hand.]

The foregoing is a full and true statement of the balances, receipts and expenditures of said district for the six months beginning.....18....

.....

Township Treasurer.

.....18....

Subscribed and sworn to before me.....this.....day of..... A. D. 18....

.....

Form 27. Notice of Funds to pay Order. [116.]

To the Clerk of District No.....Town.....Range.....

Notice is hereby given you that I have money on hand to the credit of your district with which to pay order No.....,issued to.....your teacher, for wages.

.....

Township Treasurer.

.....*Ill.*,.....,18....

Form 28. Treasurer's Published Statement. [117.]

Annual statement of the treasurer of township.....,range.....,for the year ending April.....18....

[Here insert former balance, receipts, stating sources, and expenditures, stating purposes, and balance at date of report.]

The foregoing statement of balances, receipts and expenditures of said school township for the year named, is full and true.

.....

Township Treasurer.

Subscribed and sworn to before .....,this.....day of.....,18....

.....

Form 29, Notice of District Election. [128.]

Notice is hereby given, that Saturday, the.....day of.....18.... an election will be held at.....in school district No.....township..... range.....county of.....,and State of Illinois, for the purpose of electing .....school director.....for said district. The polls will be opened at..... o'clock.....M., and close at.....o'clock M., of the same day.

Dated this.....day of.....18..

.....
.....
.....
} *School Directors.*

Note. If more than one director is to be elected, consult **42**, *note* 1, before drawing the notice.

Notices of meetings to vote on various *business questions* may be in substantially the same form, except that such meetings are not required to be held Saturday, but may be held on any other day of the week. The various questions to be voted on should be clearly stated. The poll-book, tally list, and returns of district elections are substantially the same as of township elections, forms for which have already been given—Forms Nos. 8, 9 and 10.

Form 30. Notice of Special Meeting of Directors. [138.]

See form No. 11 for special meeting of trustees.

Form 31. Contract with Teacher. [146, 8th.]

It is hereby agreed, between the school directors of district No.....,township.....,range.....,county of.....and State of Illinois, and G. H., a qualified teacher of said county, that the said G. H. is to teach the common school in said district for the term of.....months, beginning the..... day of.....48....; and that for such services property rendered the said directors shall pay the said teacher.....100 dollars a month.

A. B.,
C. D.,
E. F.,
} *Directors of said District.*

G. H., *Teacher.*

Form 32. ORDERS DRAWN AGAINST UNCOLLECTED TAXES. [149.]

The treasurer of township....., range.....,in.....county, will pay.....100 dollars to order of.....for....., out of the proceeds of the tax levied.....18....

This order is issued and received in full discharge of the debt which it purports to pay, and it is payable solely from the proceeds of said tax when collected.

By order of the board of directors of district No....., in said township.

A. B., *President.*
C. D., *Clerk.*

NOTE. This form can be varied if it be desired to draw against a special tax, as one levied for building purposes.

Form 33. ORDER ON TOWNSHIP TREASURER. [154.]

See form in **239**; also forms 32 and 49.

Form 34. PERMIT OF TRANSFER. [155.]

.....*Ill.*,.....18....

By order of the board of directors of school district No .....T.....R....., permission is granted....., who is a resident of this district and of lawful school age, to attend school.....months in district No.....T.....R.....

This permit shall continue in force.....months from this date.

....
Clerk. *President.*

.....*Ill.*.....18....

Approved by order of the board of directors of school district No.....T .....R.....

....
Clerk. *President.*

Form 35. NOTICE OF ELECTION OF A BOARD OF EDUCATION. [162.]

Use always form in **162.**

Form 36. NOTICE OF ELECTION FOR ORGANIZATION UNDER THE FREE SCHOOL LAW. [171.]

Use always form in **171.**

Form 37. TEACHER'S CERTIFICATE. [187.]

Use form in **187.**

Form 38. RENEWAL OF TEACHER'S CERTIFICATE. [187.]

OFFICE OF COUNTY SUPERINTENDENT OF SCHOOLS.

....., *Ill.*, ..., 18....

The within certificate is hereby renewed for ..... year.. from .....,18.... the date of its expiration.

.....
County Superintendent of Schools for ..... County.

Form 39. REVOCATION OF TEACHER'S CERTIFICATE. [187.]

OFFICE OF COUNTY SUPERINTENDENT OF SCHOOLS.

....., *Ill.*, ..., 18....

To.....

SIR: The certificate of qualification held by you as a common school teacher in ..... county, bearing date ....., 18...., is hereby revoked.

.....
County Superintendent of Schools for .....County.

NOTE.—If the certificate cannot be taken up, a notice like the above addressed to the public may be published in some paper of the county.

Form 40. NOTICE OF REVOCATION OF TEACHER'S CERTIFICATE. [187.]

OFFICE OF COUNTY SUPERINTENDENT OF SCHOOLS.

....., *Ill.*, ..., 18....

To the Clerk of District No....., in Town ....., Range.....

SIR: You are hereby notified that, on the ..... day of ....., 18....,I revoked the certificate of ..... a teacher in your district.

.....
County Superintendent of Schools for .....County.

NOTE.—If the teacher gives up his certificate and stops teaching, this notice need not be sent. But if he persists in teaching, this notice should be sent, and a similar notice should be sent to the township treasurer who holds the district's funds, and to the president of the school trustees of the township.

Form 41. Order on Institute Fund. [193.]

Office of County Superintendent of Schools.

....., *County, Ill.*, ...18....

To ..... Treasurer of ..... County:

Pay to the order of ....., 100 dollars out of the institute fund for ....., as stated in his receipted bill on file in my office.

.....

County Superintendent of Schools.

Note.—The county superintendent must pay all institute funds which come into his hands under 193 to the county treasurer. He must take vouchers for all payments from the fund and must make all payments by orders on the county treasurer.

Form 42. Receipt for Deposit of Institute Fund. [193.]

Office of County Treasurer.

....., *Ill.*, ...18....

Received of ..... county superintendent of schools for ..... county, ... 100 dollars to be placed to the credit of the institute fund.

.....

County Treasurer.

Form 43. Monthly Report of Institute Fund. [193.]

List of persons who have paid examination fees, as required sec. 8 art. 7 of the school law during the month of ....., and of those who have paid renewal fees:

[Here insert names, keeping the two classes distinct.]

The foregoing list is correct.

.....

....., 18.... *County Superintendent of Schools.*

Note.—The list of moneys to be paid over should be given the county treasurer on the first day of each month.

Form 44. Report of Registration Fees. [193.]

List of persons who paid registration fees, as required by sec. 10, art. 7, of the school law, at the institute held at ..... for ..... week.. beginning.... ....., 18....

[Here insert names.]

.....

....., 18.... *County Superintendent of Schools.*

Note.—The list and moneys to be paid over should be given the county treasurer as soon as the institute closes.

Form 45. School Register. [197.]

See form given in 197.

Form 46. Schedule and Certificates. [198 and 199.]

See forms given in 198 and 199.

Form 47. Statement. [198.]

I, A B., teacher of a common school kept at ....., in district No ....., township No....., range No....., of the principal meridian, in the county of.... ....., in the State of Illinois, hereby state that from the ..... day of ....., 18....., to the ..... day of ....., 18...., said school was in session ..... days and that the total days' attendance for his period was ..... days.

A. B. *Teacher.*

We certify that the foregoing statement is correct.

A. B.
C. D. } *Directors.*

Form 48. Receipt for Schedule. [199.]

....., *Ill.*, ...18....

Received of G. H., teacher in the common school in district No....., township ....., range ....., a schedule of said school for the time beginning the .....day of....., 18...., and ending the ..... day of .....18....

A. B., *Director.*

Form 49. School Teacher's Order. [200.]

The treasurer of township No....., range ....., in ..... county, will pay to ....., or order ..... 100 dollars for h.... services as teacher in our employ from ....., 18...., to ....., 18...., inclusive, being at the rate of ..... 100 dollars a month, for which time we have certified h.... schedule as required by 199.

By order of the board of directors of district No....., in said township.

A. B., *President.*
C. D., *Clerk.*

Form 50. Endorsement of Teacher's Order for Wages. [200.]

This order was presented to me for payment this ..... day of ....., 18.... and was not paid for lack of funds.

....., *Township Treasurer.*

Form. 51. Certificate of Tax Levy. [203.]

Use form in **203.**

Form 52. Notice of Election for Issuing Bonds. [218.]

Use always form in **218.**

Calendar of School Elections and Duties.

January, first Monday—Apportionment of auditor.
March first, on or before—Payment of auditor's warrant.
On or before same day—Report of fines and forfeitures.
April first—Collector of taxes to pay treasurer.
April, first Monday—Regular meeting of trustees; treasurer's report.
Within two days after—Treasurer's statement to directors.
April, first Tuesday—Election of trustee, when elected at town meeting.
April, first Saturday—Election of trustee, in other cases.
Within ten days after—Organization of board of trustees.
April, third Saturday—Election of directors; their report to voters.
Same day—Election of members of boards of education.
Within five days after—Report by board to treasurer.
Within ten days after—Organization of board of directors.
July seventh—Directors' report of statistics to treasurer.
On or before same day—All schedules filed with treasurer.
July fifteenth—Trustees report to county superintendent.
August, first Tuesday—Directors to certify tax levy to treasurer.
August, second Monday—Same returned to county clerk by treasurer.
August fifteenth—County superintendent's report to state superintendent.
September, at Annual Meeting—County superintendent's report to county board.
September thirtieth—Treasurer's report of notes, etc., to county superintendent.
October, first Monday—Regular meeting of trustees; treasurer's report.
Within two days after—Treasurer's statement to directors.
November first—State superintendent's report to governor; biennially.
November, Tuesday after first Monday, 1890—Election of state and county superintendents, and quadrennially thereafter.

Table of Cases.

	PAGE.
Abington *v.* N. Bridgewater, Mass..	136
Abry, Watson *v.*, Ill. App.....	265
Adams *v.* State, Ill.....	70,225
Adams, State *v.*, Vt.....	124
Adamson, Lyon *v.*, Ia.....	122
Agnew *v.* Brall, Ill.....	72
Aikman *v.* District, Kas.....	58
Akers, Jacksonville *v.*, Ill. App....	136,153
Alderman *v.* Directors, Ill.....	66
Allen, Quinn *v.*, Ill.....	66,265
Andrews *v.* District, Wis.....	129
Appeal of Cottrell, R. I.....	18
Arnold, Board of Edu. *v.*, Ill.....	201,262
Bac. Ab., Assault and Battery.....	148
Badger *v.* Knapp, Ill. App.....	84,87
Baker, Trustees *v.*, Ill. App....	106,108,119
Baldridge, Casey *v.*, Ill.....	199
Barksdale *v.* Com'rs, N. C.....	133
Barr *v.* Deniston, N. H.....	200,201
Bassett *v.* Fish, N. Y.....	68
Bateman, Newton.....	157
Bates, McCortle *v.*, Ohio.....	128
Beardstown *v.* Virginia, Ill.....	49
Beaver, Thompson *v.*, Ill.....	84,139
Berner, Jackson *v.*, Ill.....	248
Benjamin *v.* McConnell, Ill.....	155
Beverly *v.* Sabin, Ill.....	173
Bibb, Trustees *v.*, Ill.....	113
Bigelow *v.* Randolph, Mass.....	68
Binde *v.* Klinge, Mo.....	136
Bivens *v.* Harper, Ill.....	265
Black. Com., 1.....	146

PAGE.
Blood, Case v., Ia..... 84
Bloomington, McLean Co. v., Ill..... 11
Board v. Cain, W. Va..... 221
Board of Edu. v. Arnold, Ill.....201, 262
Board of Edu., Donavan v., N. Y.... 184
Board of Edu., Finch v., Ohio..... 68
Board of Edu., Hewett v., Ill.....131, 226
Board of Edu., Millard v., Ill. App.. 134
Board of Edu., Peers v., Ill.. ....223, 240
Board of Edu., People v., Ill..... 260
Board of Edu., People v., Ill..... 260
Board of Edu., Powell v., Ill.....9, 16, 202
Board of Edu. v. Rocher, Ill. App... 183
Board of Edu., State v., Wis.....68, 140
Board of Edu. v. Taft, Ill. App..... 223
Bradley v. Case, Ill 238, 244
Bradley, State v., Conn..... 121
Brall, Agnew v., Ill..... 72
Braner, Trustees v., Ill..... 66
Brewer, People v., Ill..... 52
Bruner v. Madison Co., Ill 266
Burt, McCormick v., Ill.. .....145, 151, 167
Burton, State v., Wis.....16, 137, 167
Butler v. Haines, Ind 152, 198

Cain, Board v., W. Va..... 221
Carlton v. Newman, Me..... 173
Case v. Blood, Ia..... 84
Case, Bradley v., Ill.....238, 244
Casey v. Baldridge, Ill 199
Champaign Co., University v., Ill.... 10
Charlestown, Sherman v., Mass..141, 167
Chase v. Stephenson, Ill 260
Chesshire v. People, Ill.....79, 90
Chicago, Merwin v., Ill 265
Chicago v. People, Ill.....10, 46, 70
Churchill v. Fewkes, Ill. App..139, 151, 165
Churchman, Stuckey v., Ill. App..... 155
Clark v. Directors, Ill.....168, 223, 240
Clark v. District, Vt..... 154
Clifford, Nevil v., Wis 265
Coe, Pennington v., Ill.....172, 217, 265
Com'rs, Barksdale v., N. C..... 133
Com'rs, Pace v., Ill 66
Commonwealth v. Randall, Mass.... 149
Cook Co. v. Industrial School, Ill... 10
Cook Co. v. Lowe, Ill. App..... 170
Cooley on Taxation 11
Cooley's Blackstone..... 150
Cooper v. McJunkin, Ind..... 146
Cotton v. Reed, Ill 173
Cottrell, Appeal of, R. I..... 18
Crane v. Hyde Park, Mass..... 66
Crawfordsville v. Hays, Ind 153
Cross v. Directors, Ill. App 155
Cummings, Spear v., Mass.....155, 167
Currie v. People, Ill.....79, 129
Curry v. Mack, Ill..... 110

PAGE.
Davidson v. Reed, Ill..... 65
Davison, Trustees v., Ill... 110
Davis v. Directors, Ill 152, 155, 198
Davis, Littlewort v., Miss 107
Day, Wier v., Ohio 169
Deniston, Barr v., N. H 200, 201
Deskins v. Gose, Mo..... 140
Dewey v. District, Mich.....154, 215
Directors, Alderman v., Ill..... 66
Directors, Clark v., Ill.....168, 223, 240
Directors, Cross v. Ill. App 155
Directors, Davis v., Ill 152, 155, 198
Directors v. Directors, Ill.....88, 95
Directors v. Directors, Ill. App..... 95
Directors v. Fogleman, Ill..... 217
Directors, Folsom v., Ill.....168, 224, 240
Directors v. Hudson, Ill.....153, 161
Directors v. Jennings, Ill. App....58, 152
Directors v. Miller, Ill 131, 226
Directors, Neville v., Ill..... 161
Directors, Newell v., Ill 240
Directors, Nichols v. Ill..... 169
Directors, Noble v., Ill 200, 265
Directors v. Parks, Ill.....67, 130
Directors v. People, Ill 57
Directors, Perkins v., Ia..... 140
Directors, Price v., Ill..... 65
Directors v. Reddick, Ill..... 161
Directors, Stevenson v., Ill. ..122, 152, 155, 176..... 198
Directors v. Stewart, Ill. App.. ....58, 129
Directors v. Taylor, Ill 223
Directors v. Trustees, Ill..... 84
Directors, Trustees v., Ill 84
Directors, Wilson v., Ill 64, 65
District, Aikman v., Kas 58
District, Andrews v., Wis 129
District, Clark v., Vt..... 154
District, Dewey v., Mich 154, 215
District v. District, Mo 78
District, Everett v., Mich..... 153
District v. Harvey, Vt.,.....72, 124, 217
District, Johnson v., Mo..... 129
District v. McCoy, Kas..... 162
District, Mincer v., Kas 129
District, Monaghan v., Wis..... 154
District v. Padden, Pa 58
District v. State, Neb..... 226
District, State v., Wis..... 136
District v. Sterricker, Ill 197
District, Stuart v., Mich..... 9
District v. Thelander, Minn 196, 199
District, Thompson v., Pa..... 174
Dist. Twp. Corwin v. Morehead, Ia. 66
Dist. Twp. Woodbury, Lane v., Ia... 68
Dodge, Heritage v., N. H..... 147
Doyle v. Gill, Wis.... 128

PAGE.

Dritt *v.* Snodgrass, Mo 142
Dunavon *v.* Board of Edu., N. Y... 184
Dupuyt, People *v.*, Ill..... 216

Elmore *v.* Overton, Ind 193
Everett *v.* District, Mich 153

Fassett, Stevens *v.*, Me.....146, 149
Fertach *v.* Michner, Ind 137, 138, 151
Fessenbeck, Moore *v.*, Ill.. .....222, 256
Fewkes, Churchill *v.*, Ill. App. 139, 151, 165
Finch *v.* Board of Edu., Ohio.....68
Fish, Bassett *v.*, N. Y.....68
Fisher *v.* People, Ill 75
Fogleman, Directors *v.*, Ill 217
Folsom *v.* Directors, Ill.....168, 224, 240
Fuller *v.* Heath, Ill.....11, 262

Garrard, Wilson *v.*, Ill.....65
Gerke *v.* Purcell, Ohio 174
Geddes *v.* Thomastown, Mich.....33
Gill, Doyle *v.*, Wis 128
Glidden *v.* Hopkins, Ill 239, 240
Gose, Deskins *v.*, Mo 140
Graham, State *v.*, Wis 16, 81, 87
Greene, State *v.*, Ind 107
Greenleaf *v.* Trustees, Ill 10, 44
Grove *v.* Inspectors, Ill 135

Haas *v.* Myers, Ill 153
Haines, Butler *v.*, Ind.....152, 198
Haines, People *v.*, Ill..... 107
Hale's P. C.....146
Hamill, People *v.*, Ill.....217, 224
Harper, Bivens v., Ill.....265
Harvey, District *v.*, Vt.....72, 124, 217
Harvey *v.* Irwin, Ia.....122
Hawk. 1.....148
Hays, Crawfordsville *v.*, Ind 153
Hazen *v.* Lerche, Mich.....58
Heath, Fuller *v.*, Ill 11, 262
Heritage *v.* Dodge, N. H.....147
Hewett *v.* Board of Edu., Ill.....131, 226
Higbee, Judge C. L. 165
Hightower *v.* Overhaulser, Ia. 84
Hodge, People *v.*, Neb.....95
Holbrook *v.* Trustees, Ill 71
Holmes *v.* Mattoon, Ill 265
Hopkins, Glidden *v.*, Ill.....239, 240
Houghton, Spragins *v.*, Ill 50
Hudson, Directors *v.*, Ill.....153, 161
Humiston *v.* Trustees, Ill. App.....70
Hyde Park, Crane *v.*, Mass.....66

Industrial School, Cook Co. v., Ill.....10
Inspectors, Grove *v.*, Ill.....135
In the matter of Wrigley, N. Y.....136
Irwin, Harvey *v.*, Ia.....122

Jackson *v.* Berner, Ill 248
Jacksonville *v.* Akers, Ill. App....136, 153
Jennings, Directors *v.*, Ill. App....58, 152

PAGE.

Johnson *v.* District, Mo 129
Jones, State *v.*, Ind.....72
Jones *v.* Wright, Mich 70

Kal. Nov. Mfg. Co. *v.* Macalister, Mich. 153
Kent's Commentaries, 2.....146
Kidd, State *v.*, Wis.....95
Kilduff, People *v.*, Ill.....51
Kimball, McKenna *v.*, Mass 68
King *v.* McDrew, Ill.....220
Klinge, Binde *v.*, Mo..... 136
Knapp, Badger *v.*, Ill. App.....84, 87

Lander *v.* Seaver, Vt 141, 147
Lane *v.* Dis't Tw'p Woodbury, Ia 68
Langdale *v.* People, Ill.....239
Law *v.* People, Ill 216
Lerche, Hazen *v.*, Mich 58
Littlewort *v.* Davis, Miss.....107
Lovingston *v.* Trustees, Ill 70, 119, 120
Lowe, Cook Co. *v.*, Ill. App.....170
Lynnfield, Russell *v.*, Mass.....136
Lyon *v.* Adamson, Ia.....122

Macalister, Kal. Nov. Mfg. Co. *v.*, Mich. 153
McConnell *v.* Benjamin, Ill 155
McCormick *v.* Burt, Ill.....145, 151, 167
McCortle *v.* Bates, Ohio.....124
McCoy, District *v.*, Kas.....162
McCutchen *v.* Windsor, Mo.....151
McDonald *v.* Madison Co., Ill.....266
McDrew, King *v.*, Ill 220
McDuffie, Ritchie *v.*, Ia 72
McJunkin, Cooper *v.*, Ind.....146
McKenna *v.* Kimball, Mass 68
McHenry *v.* Trustees, Ill.....110
Mack, Curry v., Ill.....110
McLean Co. *v.* Bloomington, Ill.....11
Madison Co., Bruner *v.*, Ill 266
Madison Co., McDonald *v.*, Ill.. 266
Mann, Horace 152
Marshall, Wilkins *v.*, Ill 49
Matteson, People *v.*, Ill.....51
Mattoon, Holmes *v.*, Ill.....265
Mays, People *v.*, Ill 23, 162
Merwin *v.* Chicago, Ill 265
Michner, Fertach *v.*, Ind.....137, 138, 151
Millard *v.* Board of Edu., Ill. App...134
Miller, Directors *v.*, Ill 131. 226
Miller *v.* Trustees, Ill.....84
Mills *v.* Thornton, Ill 220
Mincer *v.* District, Kas 129
Misenheimer, Trustees *v.*, Ill.....107, 118
Mizner, State *v.*, Ia.....149, 152
Mizner, State *v.*, Ia.....147
Monaghan *v.* District, Wis 154
Moore *v.* Fessenbeck, Ill 222, 256
Moore *v.* Trustees, Ill 107
Morehead, Dis't Tw'p of Corwin *v.*, Ia. 66

PAGE.
Morrow v. Wood, Wis. 157
Myers, Haas v., Ill....153

Nat'l Bank Mendota v. Smith, Ill 220
Nevil v. Clifford, Wis....265
Neville v. Directors, Ill....161
Newell v. Directors, Ill....240
Newman, Carlton v., Me....173
Newton v. People, Ill....256
Nichols v. Directors, Ill....169
Noble v. Directors, Ill....200,265
N. Bridgewater, Abington v., Mass....136
Nutter, Patterson v., Me....147

O. & M. Ry. Co., Weber v., Ill....218
Overhaulser, Hightower v., Ia....84
Overton, Elmore v., Ind....193

Pace v. Commissioners, Ill....66
Pace v. People, Ill....40, 63
Pace v. People, Ill....24
Padden, District v., Pa....58
Parks, Directors v., Ill....67, 130
Patterson v. Nutter, Me....147
Peck v. Smith, Conn....149,152
Peers v. Board of Edu., Ill....223, 240
Pekin v. Reynolds, Ill....226
Pendergrass, State v., N. C....148
Pennington v. Coe, Ill....172, 217, 265
People v. Board of Edu., Ill....260
People v. Brewer, Ill....52
People, Chesshire v., Ill....79,90
People, Chicago, v., Ill....10, 46, 72
People v. Board of Edu., Ill....260
People, Currie v., Ill....79, 129
People, Directors v., Ill....57
People v. Dupuyt, Ill....216
People, Fisher v., Ill....75
People v. Haines, Ill....107
People v. Hamill, Ill....217, 224
People v. Hodge, Neb....95
People v. Kilduff, Ill....51
People, Langdale v., Ill....239
People, Law v., Ill....216
People v. Matteson, Ill....51.
People v. Mays, Ill....23, 162
People, Newton v., Ill....256
People, Pace v., Ill....40, 63
People, Pace v., Ill....24
People, Peters v., Neb....58, 129
People, Piatt v., Ill....51
People, Rogers v., Ill....92
People, Shaefer v., Ill. App....78, 263
People v. Sielen, N. Y....161
People, Simons v., Ill. App....51, 57
People v. Sisson, Ill....223, 225, 227
People, Speight v., Ill....11, 262
People, Tappan v., Ill....222
People v. Tazewell Co., Ill....226
People, Thatcher v., Ill....220

PAGE.
People, Thatcher v., Ill....227
People, Thatcher v., Ill....227
People v. Trustees, Ill....45, 121, 216
People v. Trustees, Ill....44, 241
People, Trustees v., Ill....75, 139, 157
People v. Trustees, Ill....77, 116
People v. Trustees, Ill....10, 72
People, Trustees v., Ill. App....79
People, University of Chicago v., Ill. 10
People, Wells v., Ill....199, 200
People v. Wiltshire, Ill....221
Perkins v. Directors, Ia....140
Perkins v. Wolf....201
Peters v. People, Neb....58, 129
Phillips, Judge Jesse J....166
Piatt v. People, Ill....51
Pollock on Contracts....153
Porter v. Robinson, N. Y....59
Post, Rulison v., Ill....138, 151, 157, 163, 167
Potter v. Trustees, Ill. App....79, 88
Potter v. Trustees, Ill. App....100
Powell v. Board of Edu., Ill....9, 16, 202
Powers, State v., Ohio State....11
Price v. Directors, Ill....65
Purcell, Gerke v., Ohio....174

Quinn v. Allen, Ill....66, 265

Randall, Commonwealth v., Mass....149
Randolph, Bigelow v., Mass....68
Raymond, Richards v., Ill....9, 75
Reddick, Directors v., Ill....161
Reed, Cotton v., Ill....173
Reed, Davidson v., Ill....65
Reeve's Domestic Relations....149
Reynolds, Pekin v., Ill....226
Richards v. Raymond, Ill....9, 75
Riley, State v., Mo....78
Ritchie v. McDuffie, Ia....72
Roberson v. Troutt, Ill. App..136, 153, 162
Robinson, Porter v., N. Y....59
Rocher, Board of Edu. v., Ill. App..183
Rogers v. People, Ill....92
Rulison v. Post, Ill....138, 151, 157, 163, 167
Russell on Crimes....148
Russell v. Lynnfield, Mass....136

Sabin, Beverly v., Ill....173
Schofield v. Watkins, Ill....59
School Com'rs, Sexton v., Ill....111
School Com'rs, Wiley v., Md....18
Schouler on Domestic Relations....154
Schroll, Trustees v., Ill....10
Seaver, Lander v., Vt....141, 147
Sexton v. School Com'rs, Ill....111
Shaefer v. People, Ill. App....78, 263
Sherlock v. Winnetka, Ill....169, 226
Sherman v. Charlestown, Mass ..141, 167
Sheehan v. Sturges, Conn....137, 149

PAGE.
Siclen, People v. N. Y..... 161
Simons v. People, Ill. App.....51,57
Sisson, People v., Ill 223,225,227
Smith, Nat'l Bank Mendota v., Ill.... 220
Smith, Peck v., Conn 149,152
Smith, Trustees v., Ill 102
Snodgrass, Dritt v., Mo 142
Snyder v. Spaulding, Ill..... 255
Spear v. Cummings, Mass 155,167
Speight v. People, Ill 11,262
Spragins v. Houghton, Ill.... 50
State v. Adams, Ill.....70,225
State, Adams v., Vt..... 124
State v. Board of Edu., Wis.....68,140
State v. Bradley, Conn 121
State, District v., Neb..... 226
State v. District, Wis 136
State v. Graham, Wis.....16,81,87
State v. Greene, Ind..... 107
State v. Jones, Ind..... 72
State v. Kidd, Wis..... 95
State v. Mizner, Ia.....149,152
State v. Mizner, Ia..... 147
State v. Pendergrass, N. C..... 148
State v. Powers, Ohio State 11
State v. Riley, Mo..... 78
State v. Treasurer, Ohio 58
State v. Vanvactor, Ind..... 150
State v. Whitford, Wis. 18
State v. Williams, Ohio..... 153
State v. Williams, Vt..... 152
Steele, Judge James..... 164
Stephenson. Chase v., Ill 260
Sterricker, District v., Ill..... 197
Stevens v. Fassett, Me 146,149
Stevenson v. Directors, Ill.... 122,152,155
176.... 198
Stewart, Directors v., Ill. App. 58,129
Story's Conflict of Laws. 136
Stuckey v. Churchman, Ill. App 155
Stuart v. District, Mich..... 9
Sturges, Sheehan v., Conn.....137,149

Taft, Board of Edu. v., Ill. App..... 223
Tappan v. People, Ill 222
Taylor v. Directors, Ill 223
Tazewell Co., People v., Ill 226
Thatcher v. Peoplr, Ill 220
Thatcher v. People, Ill 227
Thatcher v. People, Ill 227
Thelander, District v., Minn 196,199
Thomas v. Urbana, Ill..... 265
Thomastown, Geddes v., Mich. 33
Thompson v. Beaver, Ill.....84,139
Thompson v. District, Pa 174
Thompson v. Trustees, Ill 21,102
Thornton, Mills v., Ill..... 220
Tingley v. Vaughn, Ill. App 162

PAGE.
Townsend v. Trustees, N. J 58
Treasurer, State v. Ohio 58
Troutt, Roberson v., Ill. App .136,153,162
Trustees v. Baker, Ill. App...106,108,119
Trustees v. Bibb, Ill 113
Trustees v. Braner, Ill..... 66
Trustees v. Davison, Ill 110
Trustees v. Directors, Ill..... 84
Trustees v. Directors, Ill 84
Trustees, Greenleaf v., Ill.....10,44
Trustees, Holbrook v., Ill 71
Trustees, Humiston v., Ill..... 70
Trustees, Lovingston v., Ill 79,119,120
Trustees, McHenry v., Ill..... 110
Trustees, Miller v., Ill..... 84
Trustees v. Misenheimer, Ill. 107,118
Trustees, Moore v., Ill 107
Trustees, People v., Ill.....45,121,216
Trustees, People v., Ill.....44,241
Trustees v. People, Ill.....75,139,157
Trustees, People v., Ill.....77,116
Trustees, People v., Ill.....10,72
Trustees v. People, Ill. App..... 79
Trustees, Potter v., Ill. App 79,83
Trustees, Potter v., Ill App 100
Trustees v. Schroll, Ill..... 10
Trustees v. Smith, Ill..... 102
Trustees, Thompson v., Ill.....21,102
Trustees, Townsend v., N. J..... 58

University v. Champaign Co., Ill. .. 10
University of Chicago v. People, Ill 10
Urbana, Thomas v., Ill..... 265

Vanvactor, State v., Ind 150
Vaughn, Tingley v., Ill. App 162
Virginia, Beardstown v., Ill..... 49

Watkins, Schofield v., Ill..... 59
Watson v. Abry, Ill. App..... 265
Weber v. O. & M. R'y Co., Ill..... 218
Weir v. Day, Ohio 169
Wells v. People, Ill 199,200
Whitford, State v., Wis..... 18
Wiley v. School Com'rs, Md 18
Wilkins v. Marshall, Ill 49
Williams, State v., Ohio..... 153
Williams, State v., Vt..... 152
Wilson v. Directors, Ill.....64,65
Wilson v. Garrard, Ill 65
Wiltshire, People v., Ill 221
Windsor, McCutchen v., Mo 151
Winnetka, Sherlock v., Ill.. 169,226
Wolf, Perkins v. Ia..... 201
Wood, Morrow v., Wis..... 157
Wright, Jones v., Mich..... 70
Wrigley, in the matter of, N. Y..... 136

Zane, Judge C. S..... 216

INDEX.

PAGE.

Accounts of township treasurer..102,103
subject to inspection. 103
with school districts.....102,104,115
Actions against—
borrower of school funds.109,110,113
collector of taxes.....221,222
members of school boards....131,257
persons not paying over fines... 251
persons preventing children from attending school.....257,260
purchaser of school lands 246
school officers.....252-257,260
teachers..... 257
treasurers.....101,102,119,120
trespasser on school property 66..... 243
trustees 37,56,96,252,257
Acts, official, recorded.13,34,57,127,182,187
Acts repealed..... 266
special, relinquished 185
not repealed 261
Adjournment to perfect petition.... 82
Administrator's preference of debts 110
Advertisement of land sales 73,245
of school site..... 69
Advice by county sup't.....27,29
by state sup't 13,16
Age of school child.....132,135,267
Apparatus, purchase of 160,168
Appeal from trustees to county sup't 85
to two county superintendents.. 87
to state superintendent 14,16,43
Apportionment by auditor..... 235
deductions from..... 26
by county superintendent 39,40
by trustees 59
Appraisal of school lands.....245,246
of district property..... 93
Assessor to note number of district 219
Assistant of county sup't..... 24
Assistant teacher, certificate of..... 200
employed by directors..... 153
Auditor to apportion funds..... 235
file transcript of land sales!..... 247
issue patents for school lands.247,248
issue warrant to pay Co. sup't.. 26
withhold funds 19

Ballot, second not taken..... 173
Ballots, at election of directors. 124
at election of trustees..... 49
blank, effect of..... 171
excess of..... 50
must be specific..... 49
Bible in school..... 142
Board of Education 177
appointed 186,270
elected.....178,180,186
funds subject to order of.....185,189
in cities of 1,000 178
election to authorize action. 181
president of 179,271

Same—*Continued.* PAGE.
quorum of..... 180
report of 182,184
term of office in..... 181
vacancies in..... 180
yeas and nays of, on expenditures 184
in cities of 100,000 186-9
in a township 74,75
Bonds, official—
of county superintendent 21
of state superintendent..... 12
of townshsip treasurer..... 100
approval of by trustees 99,100
by county sup't 38
insufficient.....99,100
new one given 100
only one required 100
Bonds, school..... 222
director not to buy of board..... 131
amount of limited.....11,222,224
payable at tw'p treasury..... 226
refunded 228
registered..... 224
with state auditor..... 228
sale of below par 225
sinking fund for 224
term of limited.....11,228
vote needed for issue of ..222,223,228
Bondsmen not released..... 102
Books, see "Text-books."
Books, etc., not sold by teachers and school officers.....10,257
Branches of study determined by directors 132,156,201
by voters 201
see "Teachers certificate"; "Pupils."

Calendar of elections, etc..... 272
Census of children..... 62
apportionment based on.....39,41,59
special and general..... 178
Certificate of purchase.....247,248
Certificate of tax levy 217
in district in two counties. 219
essential 218
Certificate, teachers' 190,191
a commission..... 197
age of applicant.....190,192
Co. sup't's discretion regarding. 192
Co. sup't to issue..... 191
examination for.....190,191
must be taken..... 195
suggestions upon..... 193
fee for..... 203
good for entire term.. 132,152,198
grades of.....191,194
qualifications 191
record of.....197,198
renewal of 191,195
revocation of.....156,191,196

Same—*Continued.* PAGE.
assistant, special, and substitute teachers to have 200
state 190
teachers must all have.....152,198
Certiorari, writ of..... 84
Challenge of voter..... 50
Changes of text books.....132,159
Children, colored, rights of.....257,259
illiterate reported.....14,62,182
number in schools..... 14,62
number under 21..... 14,62
apportionment on.....39,41,59
Cities under general law—
of 1,000 inhabitants.....178,180
of 100,000 inhabitants..... 186
under special laws.....19,46,178,185, 215..... 216
Clerk of board of directors....90,127,129
compensation of.....130,160
duties of.....115,127,129,133
of trustees, see "Tw'p treasurer."
of court to report fines, etc 251
of election liable.....49,50
Collectors, commissions of 221
to pay warrants to Co. sup'ts.235,236
to pay taxes to treasurer....220,221
to state amount uncollected 221
Colleges, etc., report to state sup't.19,263
Colored children, rights of,.....257,259
"Common school education" defined 9
Common school lands..... 241
certificate of purchase.....247,248
dedication of, for streets..... 244
exempt from taxation 10,72
patents conveying 247,248
rental of..... 242
right of way over..... 242
sale of.....34,243,245
see, also, "Real estate."
Compensation of school officers—
assistant of county sup't..... 24
clerk of school board.....130,160
county superintendent 24–26
directors 130,266
members of school boards....130,266
state superintendent..... 13
treasurer.....120,266
trustees 59,130,266
"Compulsory" law.....158,266
Condemnation of s hool site..... 174
Consolidation of districts, see "District, boundaries of."
of townships, see "Townships."
Constitution, on education 9
Contracts of school boards—
corporate, not personal 58,121,122
not made with members.....129–131
with a minor 130,154
with teacher for his own services. 153
rules of board part of..... 152
should be written..... 155
term of..... 154
validity of 152,198
trustees to observe..... 92
Controversies under school law.14,16,42
appeal to state sup't.....14,16,42
hearing of..... 18
Conversion of funds, see "Funds."
Conveyances by county sup't.....33,248
by trustees 72
to cities in trust 189
to trustees..... 70
Corporal punishment, decisions 145
infliction of by teachers..... 150
Corporation, board of directors, a.. 121
of trustees, a 45
school, how questioned ..77,84,87,121
Costs of school officers 264,265

PAGE.
County board..... 231
relations with county sup't..22,23,24 30..... 232
bond of, approved by 20
new one required by 22
office and supplies furnished to..... 22
removal of by 23
vacancy in office of filled by. 23
to examine reports of land sales 233
County clerk 227
may order election of trustes... 47
map filed by.....76,88,97,98,218
list of tax-payers filed by....88,97,98
to compute district taxes.....219,230
to certify taxes to treasures..... 220
to record land sales 231
to transmit county superintendent's bill to auditor. 26
County fund, see "Fund, county."
County judge to hear appeals..... 87
duties as to fines, etc 251
County superintendent of schools .10,20
as city sup't or teacher 31
as township treasurer..... 32
assistant of 24
bills of..... 26
bond and oath of 20,21
certificates, to grant..... 191
discretion regarding..... 192
may renew or revoke..191,195,196
to record..... 197
cities under special laws to report to 261
commissions paid to..... 24
compensation of 24,26
county school fund held by..... 42
custodian of election returns ...27,55
delivery to successor..... 43
director, removed by 33
election of ordered by. 27,125
division of time by. 24,28,30
examinat'n of teachers by.191,202,203
fees for collected by..... 203
how used.....204,207
fines, etc., duties as to 249–252
institutes promoted by..... 27
conducted by 204
liable for loss of funds.....21,256
office and office furniture for..22,232
office expenses of..... 22
real estate held by.....33,248
relations with county board.22,30,232
removal of 23,37
report of, to county board.....34,247
to state superintendent 36
to trustees of paym't to Treas. 28
sale of lands by, see "Real estate sales of."
school funds apportioned by. ..39,40
withheld by..... 40
schools supervised by 26,28
teachers examined by.....191,202,203
to advise teachers and officers.. 27
to examine applicants for admission to normal schools and the university..... 26
to hear appeals.....85,86,87
to hear controversies..... 42
to transmit statement of to state superintendent 43
treasurers' bonds approved by . 33
increase of demanded 99
books examined by.....27,31
statement of loans made to . 108
trustee, election of ordered by.27,52
trustees' report to.....61,63
obtained by, if neglected 57

PAGE

Same—*Continued.*
vacancy in office of..... 23
warrants paid in full to 236

Day, the school 168
Debt, bonded, how disposed of when district lines are changed 88,93,95
Debts deducted 92,93,95
due school fund, preferred..... 110
trustees may compromise ... 72
Declamation and composition 158
Deed of school site to trustees. 64
Default of payment of loans or interest 110
Diploma of county normal school .. 190
of state normal school 190
Directors of schools 120
action by, authorized by vote.....123,170,201
to add other branches..... 201
to build a school house 170
to enlarge house 223
to issue bonds 123,222
to lengthen term of school.123-170
to levy a tax 216
to locate a site 123,170-172
to move a house.....123,170
to purchase a house....123,170,225
to refund bonds..... 228
authorized without a vote 124,216
apparatus purchased by 160,168
body politic and corporate, a.120,121
acts as such at meetings 128
purposes of..... 121
bond not given by on appeal.... 265
bonds of, not taken by 226
books bought for poor childr'n.132,159
branches of study prescribed by.....132,156,201
business of, how transacted..... 128
clerk of, see "Clerk."
contracts by, see "Contracts by school boards."
election of 120,123
in new district..... 89
in district in two counties ... 125
judges of.....90,126
notices of 89,122,123
on Saturday 122,123
ordered by county sup't 125
by tw'p treasurer..... 125
plurality elects 54
postponed..... 126
qualification of voters 48
return of 126
tie vote..... 126
elections on special questions called by 80,123,170,216
blank ballots at..... 171
day of 125
not called by county sup't or treasurer..... 125
notices of 124,171,226
second ballot at, illegal....124,173
second election for 172
tie vote at..... 171
interest in contracts made by board prohibited to..... 129
janitor provided by.....68,155
judgments against.....264,265
fraudulently obtained 265
liability of.....121,160,167,170,253
for costs..... 258
for conversion of funds..... 254
for dismissal of teacher 160
for expulsion of pupils 160,162
for failure in duty 255
for loss of funds 256

PAGE

Same—*Continued.*
for making and enf'rcing rules 150
for schedules 132,159
for perversion of funds..... 256
when school house is used for meetings 168
library purchased by 160,168
may build on old site 172
may choose site when 170,174
may not be teachers in their own district 130
may not be trustees 46,126
meetings of 128
notices of 58
minor child of director not employed by 130
minors, contracts with 154
non-residence constitutes vacancy 122
not liable to garnishment..... 265
to mechanics' lien..... 265
orders of, void when..... 129
see "Orders."
organization of..... 127
in a new district..... 90
poll book returned by..... 126
powers of, limited..... 121
president of..... 127
pupils, relations with, see "Pupils."
quorum of 121
records kept by 127,159
submitted to treasurer..... 127
removal of by county sup't..... 33
report of teachers to county sup't 131
to treasurer..... 129
to voters 114,131,133,159
rules and regulations made by.132,136
schedules, duties in regard to.132,159
school house, duties regarding, see "School house."
school moneys, how used by.215,216
schools, closed by.....133,213-215
duties regarding.....131,160
surrender of control of, by, forbidden by..... 137
visitation of, by.....132,152
site, school, chosen by.....170,174
not to be bought by, of a director..... 131
see "Site."
taxes, power to levy 131,215
certificate of levy of 217
in two counties 219
return of 218,222
to cover expenses for how long 218
teachers dismissed by 160
employed by 132,152
not for following year.... 154
payment of by.....133,170,212,214
term of office of..... 122
in new district 90
treasurer, exhibit of, to 114
trespass, action of, by 66
vacancy in board of 122,123
Dismissal of school.....133,213,214,215
Dismissal of teachers 160
Distributable fund held by Co. sup't. 35
by tw'p treasurer.....103,104
District, boundaries how changed...76,77
appraisal of property, etc.....93,94
bonded debts.....88,93,95
classes of changes 77
division of funds. 90,91
election for 80
jurisdiction of trustees.....78,83
made at April meeting..... 77
by county sup't.....85-87
maps filed, etc.....76,88,97,98,218

PAGE
Same—*Continued.*
petition for....77,81,97
review of, on writ of *certiorari*.84,87
not to be made if new or old district will have less than 10 families....78,79
Districts, designation of....76,121
dissolution of—no school.... 97
election in, see under "Directors," "election" and "elections."
formation of.... 76
legality of questioned....87,121
funds credited to....61,91,96
how expended....216,217,238–241
in new townships.... 76
liable to others.... 95
limit of debt of....11,222,228
of school term of..131,133,181, 215.... 216
of taxation by....215,216,220
may not waive rights.... 95
new, elections in.... 89
not liable for injury to pupils on school premises.... 68
overpayment of.... 61
special, see "Cities under special laws" and "Special laws."
taxes, see "Taxes."
union, see "Union districts," see also "District, boundaries of."
Diversion of funds, see "Funds."
Division of property of districts.90,91,93
Donations, grants, etc., for school purposes....9,64
for sectarian purposes prohibited to school boards.. 10,256

Education in the constitution....9,11
Elections, school, see under "Board of education," "Directors," "District, boundaries of," "County superintendent," "State superintendent," "Trustees," and "Special laws."
Eligibility to school offices..46,56,122 186.... 259
Enumeration of children, see "Census."
Epidemic, schools closed....154,215
Examination of books, etc—
of Co. sup't. by Co. board....34,233
of treasurer, by Co. sup't....27,31
by trustees.... 64
Examination of teachers—
by board of education....181,183,187
expenses of.... 202
notices and number of.... 202
state superintendent's.... 190
see "Certificate, teachers';" Co. superintendent;" "Teachers."
Executors' preference of school debts.... 110
Exemptions, directors and trustees. 266
Expenses of county sup't....22,232
Exclusion of pupils.... 167
Expulsion of pupils....160,162
by whom.... 167
continues how long.... 166
decisions upon....162–167

Fines, see "Penalties."
Fines and forfeitures.... 249
Forfeiture of funds by townships... 62
may be remitted....19,62
Forms.... 272
Fractional townships, see "Townships, fractional."
Free schools established....9,12

PAGE
Fund, county....42,237238
interest of distributed....42,237,238
lands belonging to....33,248
principal loaned.... 42
report of.... 35
Fund, district.... 238
account with....103,104
disposition of when district is dissolved....90,91,96,97
division of....90,91
how paid out....238–241
paid for what purposes....215–217
surplus loaned.... 108
treasurer holds....70,225
union district's....131,133,221,240
Fund, state....9,234,235
apportionment from....235–237
Fund, township....103,237
additions to....113,114,237
income of distributed....237,238
principal of....103,237
loaned....105–114,237
treasurer holds.... 70
Funds, school.... 234
county sup't liable for loss of.21,256
diversion....217,265
not subject to taxes....10,11,72
school officers liable—
for conversion of.... 254
for loss of.... 256
for perversion of....10,256
treasurer liable for loss of.... 99
Furniture, school, purchase of.... 215
sale of by school officers prohibited....10,257

Garnishment of school board.... 265
General assembly to provide free schools.... 9
Graduates county and state normal schools.... 190

High school, a part of school system....9,73,75,201
High school, township, see "Township high school."
Highest candidate ineligible.... 50
Holidays....160,213,214

Illiteracy, report of....14,62
Indictment of school officers....254,257
of trespasser.... 243
Informalities in elections 51
Informer to receive half....243,251
Institute fund, source of.... 203
how held.... 204
how paid out....204,207
report of to county board...34,35,204
Institutes, attendance upon....204,206
conduct of.... 205
county sup't to hold 27,204
fees for.... 203
teachers for....204,205
Insurance of school houses.... 67
Insurance as security for loans.... 109
Interest, action to recover.... 110
added to principal....113,114,237
apportioned....42,237,238
extra, calculation of.... 111
on teachers' orders....115,116
how stopped.... 116
penalty for non-payment....110,111
rate on loans....105,106
on probated claims.... 110
state to pay.... 235

Judges of election, may not convene after adjournment.... 51

PAGE

Same—*Continued.*
of directors 126
return of poll book by..... 126
of trustees 48, 49, 51, 55
return made by.....50, 55
liable for failure to make return. 253
for permitting illegal voting.. 50
to settle tie vote 54, 126, 171
Judgments, against purchaser of school lands. 246
against school officers..... 264
fraudulently obtained 265
Justices, duties of regarding fines, etc 250

Lands, see "Common school lands" and "Real estate."
Levy of taxes, see "Taxes."
Liabilities, see "Penalties."
Libraries, school, provision for...160, 168
Lien, mechanics', on school property 265
on real estate of school officers... 255
Limit of indebtedness.....11, 222
of taxation 215, 216
Loans, of county fund.....42, 237
of district funds, surplus..... 108
of township funds.....105-114, 237
not made to Treas. and trustees.. 106
records of.....34, 103
to school districts.....105, 106
Loss of funds.....21, 100, 256
"Lost" time 160, 214

Making fires, sweeping, etc 68, 155
Mandamus, writ of, to compel—
directors to act..... 173
levy of tax 264, 265
treasurer to file list and map..... 88
trustees to consider petition....77, 84
Map of township 76, 88, 97, 98, 218
failure to file 88
Meetings of directors 128
of trustees 57-
in school houses 160, 168
Minor, contract with.....130, 154
granting certificate to.....190, 192
Mortgages, form for 108
valid in name of county sup't...42, 108
others valid..... 109
release of 109

Natural sciences, examination in.191, 194
Night schools..... 136
Normal school graduates 190
Note in place of a bond..... 224
Notes, examined by trustees 114
list given to county sup't 108
in name of county sup't 42, 107
in name of trustees..... 107
Notice, of district election 123, 124
must state questions....47, 123, 124
of examination of teachers 202
by state sup't.....190, 191
of sale of lands.....73, 245
to district, of proposed change. 81, 82

Oath, official, of county sup't..... 20
of state superintendent 12
trustees, treasurer, and directors not to take..... 57
Office supplies for county sup't..... 22
Officers, exempt from road labor, etc 266
judgments against 258, 264
liabilities of, see "Penalties."
lien on real estate of 255
resignation of..... 53
Official bonds, see "Bonds."

PAGE

Orders, school, form of.....170, 175
212.....238, 239
against uncollected taxes 169, 170
teachers', draw interest when. 115, 212
drawn when 212
substance of 212, 239, 240
treasurer not to pay when....130, 239
Organization of board of directors . 127
of board of education 271
of board of trustees 56
of cities under general law ...185, 262
of new district 90
Overpayment of district 61
Owner refuses to sell site 174

Parents must send children to school 266
Penalties, recovery of..... 256
Penalties..... 252
any person subject to—
for damaging school house.. 66
for disturbing a school..... 66
for illegal voting 50
for keeping colored children from school..... 257, 259
for not sending children to school 267
for trespass.....66, 243
any school officer subject to—
for conversion of funds 254
for loss of funds 256
for neglect of duty..... 255
for perversion of funds 256
cities, for failure to report..... 261
clerk or judges, for permitting illegal voting 55, 253
clerks, state's attorneys, etc., in regard to fines 251
collector, for failure to pay....221, 222
county board, for not examining report of sale..... 233
county sup't, for not making report to state sup't.....19, 37
directors, see "Directors liable."
judges, for failure to make return.....55, 253
parents, for keeping children out of school 267
purchaser of lands, for non-payment..... 246
teachers, for not making schedules.....133, 213
townships, for failure to deliver report 62, 63
treasurer, see "Treasurer liable."
trustees, see, "Trustees liable."
Permits, duration of..... 175
Perversion of funds 10, 256
Petitions for change of district lines 77-82
action upon by trustees..... 83
error in 78
filed 20 days 81
filing fixes status of..... 80
"form" distinguished from "substance" 84
forms of..... 78
must make a case 79
change of, not admissible..... 78
notice of to districts 81, 82
purpose of..... 78
remonstrance against 84
before county sup't.....85, 86, 87
unnecessary 97
for organization under general law..... 185
for purchase of site..... 181
for sale.....69, 243
for township high school.. 73

Same—*Continued.* PAGE
discontinuance of..... 75
Picnics and prizes, expenses of 216
Plat of common school lands..... 244
Plurality elects..... 54
Poll book, election of directors ..126,127
election of trustees..... 55
evidence of election..... 55
Polling places at election of trustees 54
Polls, how long opened.....49,125
not duly opened..... 51
Poor children, books for..... 132
Postponement of election, of directors..... 126
trustees 51,52
President, of board of directors 127
pro tem. appointed..... 129
of board of education.....178,179
duties of..... 179
of board of trustees..... 57
Proceedings, official, to be recorded, 57,127..... 182
Property, appraised and divided..90,93, 93..... 98
private, used by school children. 65
teachers to account for..... 207
title to..... 64
union districts..... 98
Pupils, age of.....132,135,267
and name noted on register..... 208
in schedule 209
assignment of, to schools 160,162
attendance of noted.....208,209
reported.....14,62
choice of studies by..... 157
conduct of, away from premises. 140
corporal punishment of 145
entitled to equal privileges....132,136
exclusion of, in certain cases 167
have no contract with teacher... 155
injuries to..... 68
janitor work not required of 68
religious freedom allowed to.... 142
residence of 152,135
suspension and expulsion of..160, 162,182..... 187
continue how long..... 166
transferred..... 175
tuition fees paid by 160

Qualifications of teachers... 191,194
of voters 46,48,263
Quorum of directors 121,127
of trustees 58

Rate of interest, see "Interest."
Real estate, county sup't to hold. .. 42
exempt from taxation 10,11,72
leased.....72,242
lien on that of school officers.... 255
sale of.....69,189,242-248
security for loans.....105-107,108-114
taken for indebtedness 71
trustees to hold..... 71
valued how 105
see also, "Common school lands."
Receipts for schedules 211
Records, of county sup'ts of action on appeals..... 87
of certificates granted..... 197
of land sales 34,247
submitted to county board.. 247
of directors..... 127
submitted to treasurer..... 157
of loans 34,103,232
of state superintendent 13
of treasurer.....102,103
open to inspection 103
submitted to trustees 114

Same—*Continued.* PAGE
of trustees..... 57
Register of bonds..... 224
Register, school..... 207
furnished by directors..... 208
kept by teachers.....75,207,208
returned by..... 208
Religious exercises in school..... 142
Removal by director or trustee... 3,122
Reports, of board of education...182,188
of county superintendent...34,36,247
of directors 129,131
of fines, etc..... 2 0
of institutions of learning 19,264
of land sales..... 247
of special districts 19,263
of state superintendent 14
of treasurer..... 114
of trustees.....61,63
value of, when accurate..... 36
Resignations, provisions regarding 23,53
Revenue and taxation..... 215
Rules, of board of education. 182,188
of directors 132,138,140
decisions upon..... 138
power to make.....132,138
liability for 150
made by state superintendent... 14
made by teacher..... 136

Sale, of real estate, see "Real estate."
of school books, limitations. ..10,237
of school property.....69,160
Schedules, certificates upon.....210,212
delivery of, to directors..... 211
to treasurer..... 132
directors liable for..... 132
incomplete 210
of school with more than one teacher 211
receipt for..... 211
separate when.....209,211
statement in place of..... 209
Scholars, see "Pupils."
School, legal..... 60
School books, see "Text-books."
not to be sold by school officers and teachers.....10,217
School day 168
School districts, see "Districts."
School funds, see "Funds."
School house—
building of, vote for.....170,171,173
bonds for 222
controlled by directors..64,67,160,168
doors to open outwards 67
exempt from taxation 11,72
from mechanics' lien..... 265
highway to, lacking..... 65
in another district 134
insurance of..... 67
meetings in.....160,168
purchase of.....170,225
renting of..... 134
repairing and improving. 67,223
sale of..... 69
site of.....170,171,174
title to, in trustees 64
School lands, see "Common school lands" and "Real estate."
School month..... 213
School site, see "Site."
School year.....15,97,131,133,181,215,216
School, closed by directors.....154,215
disturbing, penalty for..... 66
management of.....132,136,182,187

PAGE

Same—*Continued.*
province of 9,131,201
special laws concerning, forbidden.... 11
support of 131,181,187,215,216
term of.....131,133,181,215,216
visitation of.....26,28,132,152,182,188
Secretary of board of education..182,186
Sectarian appropriations prohibited.....10,256
Security on bonds, see "Bonds, official."
Security, additional required..... 110
personal.....105,106,110
real estate 105,106,100
how valued 109
Sinking fund 224
Site for school house, choice of..170,171
condemned 174
deed of..... 64
district should own..... 64
does not revert..... 65
leased 65
Sixteenth section 241
other in lieu of..... 241
Special acts modified . 201,215,216,241,261
relinquished 185
not repealed 261
Special teachers must have certificates 200
State's attorney's, duties as to fines 250
State certificates 190,191
State funds 234
Statement in place of schedule. 209
Statements, see "Reports."
State superintendent, see "Superintendent of public instruction."
Statistics, see "Reports."
Substitute, employed by whom..... 153
must have a certificate..... 200
Suits, see "Actions."
Superintendent of city schools...181,200
Co. sup't may not be a 31
Sup't of public instruction.....11,12
advice given by..... 13
approves institute teachers...204,205
authority of, recognized by courts..... 61
certificate granted or revoked by..... 190
correspondence of..... 13,15
forfeitures remitted by.....19,62
funds withheld by.....18,19
records of..... 13
report by.....14,15
rules made by..... 14
salary and expenses of..... 13
term of office of.....10,12
Sureties, see "Bonds, official."
Suspension, see "Expulsion."

Table of cases..... 278
Taxes for school purposes....215,216,234
amount specified when..... 217
board of education may levy..... 181
collector of.....220,221
directors may levy. 215,216
without a vote when..... 216
excess in levy for..... 220
funds and property exempt..10,11,72
in special district..... 263
uniformity of levy for 230
Taxpayers, list of filed. 88,97,98
Teachers, appointment of..132,152,181,187
attendance by, upon institutes.205,206
contract of, with school board.... 152
is for personal services..... 153
observed by trustees..... 92

PAGE

Same—*Continued.*
rules of board and provisions of law a part of 152
term of 154
corporal punishment, inflicted by 145
dismissal of.....160,182,187
decisions upon 160
examination of.....181,188,191,194,202
janitor work not required of.....68,155
liable for making and enforcing rules..... 150
property accounted for by..... 207
register kept by 207
reinstatement of. 196
relations of, with school board 132 152,155,160,181,182,187
resignation of..... 154
schedules made by 209,212
certified 210
suspension by 167
wages of, not paid, when..132,198,207
for part of a month..... 214
unpaid, draw interest 116,212
when due 133,169,212
Teachers' certificates, see "Certificates."
Teachers' institutes, see "Institutes."
Term of office, of boards of education 180,181,186
of county superintendent.....10,20
of directors 122
in new district 90
of state superintendent 10,12
of township treasurer.....56,57
of trustees 46
of president of..... 57
Text-books, uniformity of 132,158
bought for poor pupils.....152,159
not for all..... 159
changes of 132,159
Tie vote 54,126,171
Title to school property.....64,189
defective 65
to common school lands.....9,241
Tobacco on school premises 142
Town meeting, trustees elected at..54,56
Towns, see "Cities."
Township, school 43
alterations in 44,244
business of, done by trustees.45,242
congressional..... 44
districts should include 77
divided by county lines, rep'ts of 63
fractional consolidated. 44,244
entitled to funds 26,39
fund of, see "Fund, township."
may support a high school..... 73
may unite with another for such purpose 75
not a civil town..... 44
Township board of education..... 73
Township high school 73
Township treasurer 99
accounts of 64,102,114,115
examined by trustees 64,114
by Co. sup't.....27,31
open to inspection 57,103
appointment of 56
bond of, approved by trustees .. 99
by county sup't 38,99
form of 100
increased when..... 99
new one when.....41,100
books, etc., demanded by..... 113
cash of, verified 32,115,116
clerk of trustees, to be..... 56
compensation of 120
delivery to successor.....119,254

PAGE

Same—*Continued.*
election ordered by.....47,89,122,125
returns of, held by 126
eligibility.....46,56
funds, custodian of...38,39,70,113,
117.....177,225
to loan, see "Fund, township."
to pay out on orders, see "Fund, district."
liable for—
failure in duty 57,96,99,100,118
not liable for 118
failure to return statistics 255
loss of funds 99,100,256
retaining funds.....119,254
loans not made to..... 107
map, etc., filed by ..76,88,97,98,117,218
notes, etc., submitted to trustees. 114
reported to county sup't..... 108
orders paid by, see "Orders."
removal of..... 57
residence in special district. 46
statement to directors..... 115
to trustees 114,115
published annually..... 117
to examine district records...117,127
to return tax levy 117,218
to sue, for interest..... 111
if security is not increased ... 110
transfers, duty of, concerning. 175
vacancy in office of..... 56
Transfer of pupils 175
Treasurer, see "Township treasurer."
Treasurer of special district..... 263
Trespass on school property.....66,243
Trustees of schools..... 43
a body politic and corporate.... 45
act as such only 58
compensation of 59,130,266
debts compromised by.....71,72
dedication of land for streets by. 244
district boundaries, changes of by..... 77
action upon by 82,83
appeal from..... 85
concurrent action.....82,97
jurisdiction regarding 78
districts organized by..... 76
map of, filed..... 76
districts, special, not changed by 77..... 263
donations, etc., made to..... 64
election of 46,47,48
at town meeting 54
conduct of 48,49
contested..... 49
county sup't may order..... 52
first 47
notice of.....47,49
plurality elects at..... 54
postponement of..... 51
qualification of voters at....46,48
return of..... 55
not made..... 55
tie at. 54
treasurer to order 47
eligibility of 46,122
funds apportioned by..... 59

PAGE

Same—*Continued.*
liable for—
conversion of funds 254
false return of statistics. 255
insufficiency of treasurer's bond..... 254
loss of funds 118,252,256
not dividing property..... 96
not organizing..... 56
not returning statistics..37,63,255
loans not made to.....107,129,130
mandamus issued against.....77,84
may be a teacher..... 47
may live in special district 46
may not take funds from Treas. 71
meetings of..... 57
not to be interested in contracts. 129
not to release treasurer and his bondsmen..... 102
organization by..... 56
property divided by.....91,93
previous contr. cts observed by.. 92
quorum of..... 58
real estate, leased by.....72,242
purchased by 71
sold by..... 72
records of..... 57
relation of, to state..... 45
removal of treasurer by..... 57
report of 61,63
successors to "Trustees of school lands" 98
term of office of 46,48
title to property in..... 64
to appoint treasurer..... 56
to approve his bond..... 99
to examine his books, etc 64,114
vacancy in office of..... 53
Tuition fees.....70,160

Union school district—
dissolution of..... 97
funds with one treasurer. 131,221
report of 64
taxes of..... 221
vacancy in board of..... 125
see also "District" and "Districts."

Vacancies—
in board of directors.....123,125
in board of education.....180,186
in board of trustees 53
in office of county sup't..... 23
Vacations 213
Vote on school questions 123,170–
173.....222,229,228
a second vote on..... 124
not on same day 124
of no effect 72,124,216
Voters challenged..... 50
in divided townships 48
qualifications 46,48
residence of 49

Warrants issued by auditor 235
see "Orders."

Year, school.....15,97,131,133,181,215,216

SOMETHING NEW AND PRACTICAL.

FOR TEACHING YOUNG PUPILS

How to Use the English Language.

By W. B. Powell, A. M., Superintendent Schools, Washington, D. C.

HOW TO SEE. Price, 30 cents.
HOW TO TALK. Int. price, 42 cents. Ex. price, 25 cents.
HOW TO WRITE. Int. price, 60 cents. Ex. price, 35 cents,

Their purpose is to guide the young learner in the correct use of the language at the time when he is forming habits of speech.

Readers and Spellers.

	Introductory.	Exchange.
Monroe's New Primer	.15	.09
Monroe's New First Reader	.20	.12
Monroe's New Second Reade	.30	.18
Monroe's New Third Reader	.42	.25
Monroe's New Fourth Reader	.66	.40
Monroe's New Fifth Reader	.84	.50
Monroe's First Steps in Spelling	.18	.08
Monroe's Practica Speller	.25	.10
Monroe's Writing Speller (per dozen)	.42	

Warren's Geographies.

NEW EDITIONS; REDUCED PRICES.

Warren's Primary Geography	.48	.25
Warren's Brief Course Geography	.96	.50
Warren's Common School Geography	1.08	.60
Warren's Physical Geography	1.35	.75

These contain an eight-page Illinois supplement, comprising the most complete text and map of Illinois ever published in a school geography.

Mathematics.

Hagar's Primary Lessons in Numbers	.22	.10
Hagar's Elementary Arithmetic	.30	.15
Hagar's Common School Arithmetic	.72	.30
Hagar's Elementary Algebra	.90	.49

Greene's Grammars.

Greene's Indroduction	.40	.20
Greene's English Grammar	.75	.35
Greene's New Analysis	.86	.40

Charts.

	Retail Price.
Monroe's Reading Charts—full series, 56 Nos	$10 00
Monroe's Reading Charts—Abridged series, 24 Nos	6 00
Parker's Arithmetical Charts—56 Nos	9 00

Miscellaneous.

	Introductory.
Hagar's Dictation Problems	.36
The Geographical Question Book	.24
Knisely's Arithmetical Questions	.30
Cowdery's Elementary Moral Lessons	.68
Monroe's Physical and Vocal Training	.72
Apgar's New Geographical Drawing Book	.42

Sample copies, for examination, sent prepaid on receipt of introduction price. Liberal terms for first introduction. Catalogue, specimen pages and price lists sent free of charge.

Address,

F. S. BELDEN,
184 Wabash Ave., Chicago, Ill.

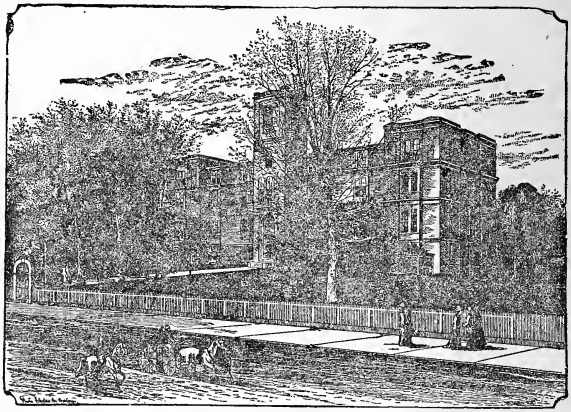
COWPERTHWAIT & CO., PUBLISHERS.

Almira College,

GREENVILLE, ILLINOIS.

Boarding School for Young Ladies.

Day School for Both Sexes.



Greenville, the county seat of Bond county, is on the Vandalia Line, fifty miles east of St. Louis. It is noted for the enterprise and intelligence of its people.

The college building, an elegant brick structure, was erected expressly for school purposes. It is provided with fire escapes and is a safe, intelligent home for young ladies.

Almira College affords superior facilities for the study of the branches of the collegiate course, Music, Art and Elocution, and has, besides, a Business Department in which Double and Single Entry Bookkeeping, Business Correspondence, Business Papers, Arithmetic, Rapid Calculations, Language, and all the branches of a thorough, practical business education will be taught. This department will be in all respects equal to the best business colleges, while the expense will be much less.

For courses of study and terms send for circulars. Correspondence solicited.

JAMES P. SLADE, A. M.,

President.

STATE NORMAL UNIVERSITY,

NORMAL, MCLEAN CO., ILLINOIS.

This Institution was established, by the General Assembly of the State, in 1857. Its sole purpose is to prepare teachers for the schools of the State. The several grades of the Model Department are established to aid in this work. Nevertheless, these grades serve well the purpose of those wishing instruction in the subjects taught.

Students in the Normal Department are required to declare that their purpose in attending is to fit themselves for teaching; and all the work of the school is shaped to this single purpose. Probably no other Normal School Faculty in the country embodies so much of successful experience in Normal School work as ours. Tuition is FREE to those who take a pledge to teach in the schools in Illinois. Our facilities for the study of Botany, Zoölogy, Geology, Chemistry, and Mineralogy, are excellent, and we now offer them to such as desire to make those studies a SPECIALTY at a very small cost.

THE HIGH SCHOOL

grade of the Model Department offers the advantages of a first-class academy and preparatory school. There are two courses of study—the General and the Classical. Those who satisfactorily complete either course receive the Diploma of the University. Tuition in this grade, $30 a year. For particulars concerning the High School, address the Principal.

THE GRAMMAR SCHOOL

grade is under the charge of the Assistant Training Teacher; he does much of the teaching, sees that healthy discipline is maintained, and takes care that no improper or vicious pupils are admitted to the school. This school prepares pupils for the Normal Department, for the High School, or for general business. Tuition, $25 a year.

For catalogues, etc., address,

EDWIN C. HEWETT, President.

WELLS SCHOOL FOR TEACHERS

AND

SCHOOL OF INDIVIDUAL INSTRUCTION.

OREGON, — ILLINOIS.

E. L. WELLS, Principal.

SPECIALTIES:

STATE CERTIFICATE WORK,
COUNTY CERTIFICATE WORK,
PREPARATION FOR OTHER SCHOOLS,
PREPARATION FOR BUSINESS,
SCHOOL MANAGEMENT,
AND SCHOOL METHODS.

No vacations. Studies optional. Students enter at any time, and stay as long as they please. Teachers spend their vacations in the most profitable drill-work. Many, besides teachers, attend the School. It is a good place for all young men and women who wish thorough instruction.

SUMMER SCHOOL.

The location is an admirable one for a Summer School. The town possesses some of the most beautiful scenery of Illinois, and is a popular summer resort. Many teachers of City Schools spend their summers in Oregon.

STATE CERTIFICATE WORK.

Studies for State Exam nations can be taken at any time; but a special class for this kind of work will be formed nine weeks previous to the State Examinations for each year. Teachers wishing the best of advantages will do well to join this class.

Persons wishing to take new studies for State Examinations, should spend sufficient time in the School to thoroughly pursue the same.

The following are some of the Peculiarities of the School:

1. It is a good place for slow learners.
2. It is a good place for rapid learners.
3. It is a good place for students in poor health.
4. It is a good place for teachers in their vacations.
5. It is a good place for persons who wish to review their studies.
6. It is a good place for those who wish to study other languages.
7. It is a good place for those who wish to select their own studies.
8. It is a good place for persons who must attend school irregularly.
9. It is a good place for young people who wish to become teachers.
10. It is a good place for farmers' boys and girls in summer or winter.
11. It is a good place for teachers desiring first grade or State certificates.
12. It is a good place for young people who wish a good business education.
13. It is a good place for those who wish to take vocal or instrumental music.
14. It is a good place for those who do not wish to be classified with younger pupils in other schools.

Send for Circular and Catalogue.

RAND, MCNALLY & CO.'S

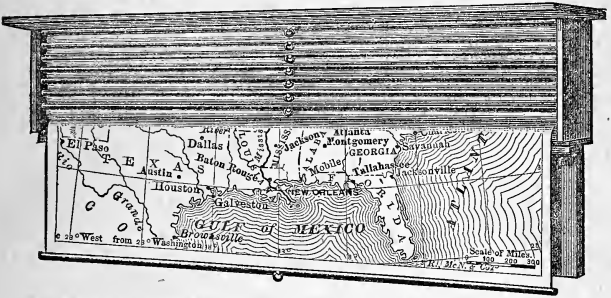
NEW SERIES OF EDUCATIONAL MAPS

Especially Designed and Engraved for use in Schools.

These Maps are distinguished by several new and useful features, being beautifully bold in outline, free from unimportant names, and so distinct that no difficulty is experienced in reading any name. They show the latest geographical discoveries and political changes in every part of the world. They are handsomely and artistically colored, so that the political boundaries can be readily distinguished at a distance. The names of towns are engraved in clear, bold type, and the towns themselves are indicated by large black dots, so that the series can, if preferred, be used for "outline" maps. The lengths of the principal rivers and the altitudes of the highest mountains are engraved on the maps.

THE "RUBY" CASE, WITH SPRING ROLLERS.

THE HANDSOMEST AND HANDIEST.



The Following Among Many Eminent Educators Warmly Commend This Series.

EDWIN C. HEWETT, LL. D., President Illinois Normal University.
ROBT. ALLYN, D. D., LL. D., Principal Southern Illinois Normal University, Carbondale, Illinois.
GEO. HOWLAND, Superintendent Public Schools, Chicago, Illinois.
J. SIMPSON AFRICA, Secretary Internal Affairs, Harrisburg, Pa.
M. B. ANDERSON, LL. D., President University of Rochester, N. Y.
R. W. STEVENSON, Superintendent of Public Instruction, Columbus, O.
J. W. HOLCOMBE State Superintendent of Public Instruction, Indiana.
DAVID S. JORDAN, President Indiana University.
JOHN CLARK RIDPATH, Author of "Ridpath's Cyclopedia of Universal History," Greencastle, Ind.
W. H. CHANDLER, Secretary Board of Regents, Normal School, Madison, Wis.
ALBERT B. WATKINS, Ass't Secretary, Regents of the University, Albany, N. Y.
JOHN M. B. SILL, Superintendent of Schools, Detroit, Mich.
JAMES B. ANGELL, LL. D., Pres't University of Michigan, Ann Arbor, Mich.
E. C. DELANO, First Assistant Superintendent Public Schools, Chicago, Ill.
J. C. BURROUGHS, Second Assistant Superintendent Public Schools, Chicago, Ill.
JAMES H. SMART, President Purdue University, Lafayette, Ind.
GEO. S. BAKER, Superintendent of Schools, Evanston, Ill.
ROBERT GRAHAM, State Superintendent of Schools, Madison, Wis.
J. M. GREENWOOD, Superintendent of Instruction, Kansas City, Mo.
JOHN GOODISON, Department of Geography, Michigan State Normal School, Ypsilanti, Mich.
E. P. WATERBURY, PH. D., LL. D., President State Normal School, Albany, N. Y.

Send for complete catalogue and price list of maps and cases, illustrated in colors, to

RAND, McNALLY & CO., Map Publishers and Engravers,

148, 150, 152, and 154 Monroe St., Chicago.

BETTER THAN A

GOVERNMENT BOND!

AN INVESTMENT POLICY IN THE

MICHIGAN MUTUAL LIFE INSURANCE CO.,

OF DETROIT.

J. S. FARRAND, President.
O. R. LOOKER, Secretary.

ORGANIZED 1867.

JANUARY 1, 1887:

ASSETS	$1,765,333.13
LIABILITIES	1,460,107.39
SURPLUS	305,225.74
Am't of Insurance in force	16,550,411.74
Amount paid policyholders.	2,427,631.75

Insurance written in 1886	$5,404,844 77
Increase over amount written in 1885	1,171,252 77
Increase of insurance in force for 1886	2,862,191 74
Increase of assets	227,529 44
Increase of income	73,094 77
Increase in amount paid policy holders (dividend's surrendered values and matured endowments)	39,213 92

Reasons Why You Should Insure in this Co.

Because it issues the MOST COMPETE policy of any company in the world.

ITS POLICIES INSURE against all contingencies and causes of death.

Incontestable after three years.

CASH values stated on all endowment policies after the third year.

Its dividend record cannot be equaled.

It paid its first dividend at end of first year after organization; has never passed a dividend, never paid a dividend which has not been as large or larger than that paid on same policy the year previous.

It is a Western Company, loans its money in the West, thereby securing a high rate of interest, which enables it to pay liberal dividends.

TEACHERS

Wishing to engage in the business of LIFE INSURANCE, either as Special or Local Agents, can make liberal contracts with this company.

For terms, rates and circulars explaining plans, address,

E. H. ELWELL,
Manager Northwestern Dep't.
169 LaSalle St., Chicago, Ill.

SPECIAL TO SCHOOL OFFICERS.

Your attention is called to the fact that the best School Desks and Apparatus are absolutely necessary to successful teaching.

THE AUTOMATIC SCHOOL SEAT

Is without doubt the *best*. It is the

ONLY SELF-FOLDING SEAT

In the market. An introduction invariably leads to an adoption.

T. Ruddiman Johnston's Maps.

Monroe's Reading Charts.

Parker's Arithmetical Charts.

Webster's Unabridged Dictionary—Latest Edition.

Sirartha Physiological Charts.

A full line of Registers and Records.

Globes and Tellurians.

IN FACT EVERYTHING IN THE WAY OF SCHOOL SUPPLIES.

Write us for terms and depend upon prompt reply. Any orders sent us voluntarily will be filled subject to approval in quality and price.

Union School Furniture Co,

178 Wabash Ave., Chicago.

McCULLOUGH'S

COUNTY OUTLINE MAP OF ILLINOIS,

SHOWS

EXACT LIMITS OF THE THREE U. S. LAND SURVEYS IN ILLINOIS.

Teaches the Civil Government of Illinois, both as an independent state and in its relation to the United States; gives most clearly the towns, rivers, boundaries, railroads, soil, productions, surface, climate, inhabitants, industries, geology, geography, and history; CAN BE SEEN AND UNDERSTOOD ACROSS A LARGE ROOM.

N. N. McCULLOUGH, Springfield, Ill.

From E. A. Gastman, Sup't., Decatur, Ill.: They seem to me to be excellent for use in our schools simply because they show just the things it is worth while to teach and nothing else. They are not crowded with irrelevant matter. I heartily commend them to the careful attention of teachers and school officers."

From F. R. Feitshans, Sup't., Springfield, Ill.: "We have in use in every school in this city the State and County Maps as prepared by Mr. McCullough. They meet the wants of our schools and the teachers like them."

From John Trainer, Sup t of Macon Co., Ill.: "Our teachers like your outline maps very much. We are all of the opinion that the maps needed most are those containing simply the outlines of our manual work."

From A. J. Smith, Sup't of Sangamon Co., Ill.: "I concur fully in the views and statements of Mr. Trainer, and repeat for Sangamon county teachers what he has said of Macon county teachers."

ILLINOIS:

ITS HISTORY, CIVIL GOVERNMENT, GEOGRAPHY, MAP DRAWING, AND U. S. LAND SURVEYS OF THE STATE, FROM THE ORIGINAL RECORDS, TOGETHER WITH HISTORICAL NOTES AND COPIOUS MAP EXERCISES.

Price, Twenty-Five Cents.

From J. A. Goding, Sup't of Mercer County: "I have examined your little book 'Illinois,' with great satisfaction. I find nothing in it that cannot be used by any teacher in his school with the best results."

"It covers the work called for in our Manual."

"I bought it for the Civil Government."

Address, N. N. McCULLOUGH, Springfield, Ill.

N. N. McCullough, Springfield, Ill., also gives prompt attention to all orders by mail or otherwise for School and Teachers' Supplies.

The Sheldon Series & Patterson's Language Series.

I.

Sheldon's Arithmetics, in Two Books.

The Elements of Arithmetic and the Complete Arithmetic. As Prof. Beard, of the State Normal School, Pa., says: "This Series combines the best features of others, without their faults."

II.

Sheldon's Algebras.

The Elementery and Complete Algebra.

This is not a 2-book series of Algebras, as the Complete and Elementary Algebra are the same, page for page, as far as the Elementary goes.

These albegras *are simple and clean cut*, with fresh and attractive examples.

Sheldon's Word Studies.

Bound in full cloth, 196 pages. Introductory price, 25 cents.

The title of this book indicates its precise scope and purpose. Enterprising teachers will hail with joy the aid which this book brings to their arduous work of preparation for oral instruction.

Sheldon's Supplementary Reading.

Book Third now ready. 196 pages. Introductory price, 38 cents.

It is intended in this book to give accurate and pleasing information, on subjects about which the child must study at a later date.

Supt. S. A. Ellis, of Rochester, New York, says of it: "While packed with information that should be in the possession of every child, it is given in a style at once attractive and interesting."

Sheldon's Modern School Readers, in Five Books.

These readers were prepared with the greatest care, and the lower books were submitted to the test of actual use in the school room by a large number of teachers before being offered for sale. As a result, the books were as nearly perfect as it was possible to make them when first published.

For six years the best talent which could be secured east or west has been engaged in preparing a series of text-books, which should have the meritorious features of all the best series and at the same time avoid their faults. The above series is the result of these labors.

I.

Patterson's Elements of Grammar and Composition.

226 pages, bound in full cloth. Introductory price, 50 cents.

II.

Patterson's Advanced Grammar and Elements of Rhetoric.

Bound in cloth, half leather, just published.

This book will be published in April or May at the latest.

Patterson's Elements of Grammar combines the merits of the "language lesson" system with the methods of technical grammar, and contains the essence of the best methods of the best grammarians. It is a book which charms both teacher and pupil and makes the study of grammar delightful instead of wearisome.

The Advanced Grammar is supplemented with a chapter of about one hundred pages, giving the more important principles of Rhetoric, with exercises, and fully meeting the requirements of the ordinary High School or Academic Course.

OUR HIGHER BOOKS.

I.

Shaw's New History of English and American Literature, Revised Edition. Shaw's Specimens of English Literature. Shaw's Specimens of American Literature.

II.

Avery's First Principles of Natural Philosophy. Avery's Elements of Natural Philosophy. Avery's Elements of Chemistry. Avery's Complete Chemistry, embracing Organic Chemistry.

III.

Hill's Elements of Rhetoric and Composition. Hill's Science of Rhetoric. Hill's Elements of Logic.

IV.

Olney's New Geometry. Haven's Mental Philosophy. Wayland's Chapin's Political Economy. Chapin's First Principles of Political Economy. Alden's Science of Government. Palmer's Elements of Book-keeping. Long's Classical Atlas.

Send for Circulars, Catalogue, and Propositions.

SHELDON & CO., New York and Chicago.

THE AMERICAN EDUCATIONAL SERIES.

IVISON, BLAKEMAN & CO.,

PUBLISHERS.

NEW YORK AND CHICAGO.

A FULL LIST OF STANDARD TEXT-BOOKS FOR

SCHOOLS AND COLLEGES.

Comprising the Works of such Authors as

JAMES D. DANA, ASA GRAY, LEROY COOLEY, WILLIAM SWINTON, DANIEL W. FISH, ARNOLD GUYOT, EZRA M. HUNT, DR. WILLIAM THAYER SMITH, SIMON KERL, W. K. WELLS, DAVID A. WELLS, AND MANY OTHERS.

New books are being constantly added and our list is always replete with Standard books on every subject.

Correspondence is solicited, and catalogues sent to any address on application.

IVISON, BLAKEMAN & CO.,

PUBLISHERS.

753 & 755 BROADWAY, NEW YORK.

149 WABASH AVENUE, CHICAGO.

GINN & COMPANY,

PUBLISHERS OF

SCHOOL AND COLLEGE TEXT BOOKS,

180 WABASH AVE., CHICAGO.

ELEMENTARY ENGLISH,
HIGHER ENGLISH,
OLD AND MIDDLE ENGLISH,
LATIN,
GREEK,
MATHEMATICS,
NAT. SCIENCE,
MUSIC,
HISTORY,
PHILOSOPHY,
MODERN LANGUAGES,
SANSCRIT,
POLITICAL SCIENCE,
GEOGRAPHIES, MAPS AND GLOBES.

SEND FOR CATALOGUE.

FIRM AS THE EVERLASTING HILLS.

APPLETON'S SCHOOL READERS.

BY

WM. T. HARRIS, LL. D., Sup't of Schools, St. Louis, Mo.
A. J. RICKOFF, A. M., Sup't of Instruction, Cleveland, Ohio.
MARK BAILEY, A. M., Instructor in Elocution, Yale College.

"THE ORIGINATORS OF THE 'NEW METHOD.'"

"THE LEADERS OF ALL."

The following are among the principal cities in which APPLETON'S READERS are now successfully used:

CITY OF YORK.

City of Philadelphia.	City of Chicago.	City of Brooklyn.
City of Cleveland.	City of Jersey City.	City of Omaha, Neb.
City of Patterson, N. J.	City of Kansas City, Mo.	City of Hoboken, N. J.
City of Atlanta, Ga.	City of Pougikeepsie, N. Y.	City of Syracuse, N. Y.
City of Oakland, Cal.	City of Detroit, Mich.	

And many hundreds of other cities and towns throughout the country.

—JUST PUBLISHED—

A COMPANION FIRST READER

BY M. J. WOOD.

A valuable book for use in primary classes, furnishing additional reading matter for pupils in first-reader grades. As its title indicates, it is designed as a companion to the first book of any regular series, but was prepared with special reference to Appleton's First Reader. It contains no illustrations, all the space being given to reading-matter.

PHYSIOLOGY.

HOW WE LIVE; **Or, The Human Body, and How to Take Care of It.** An Elementary course in Anatomy, Physiology and Hygiene

By James Johonnot, Eugene Bouton, Ph. D., and Henry D. Didama, M. D.

A text-book thoroughly adapted to elementary instruction in the public schools, giving special attention to the laws of Hygiene (including the effects of alcohol and narcotics upon the human system) as ascertained from a careful study of Anatomy and Physiology.

APPLETON'S LATEST ISSUES.

APPLETON'S NEW ARITHMETICS.

Two volumes.

I. NUMBERS ILLUSTRATED. In Language, Drawing, and Reading Lessons. An Arithmetic for Primary Schools. By Andrew J. Rickoff and E. C. Davis. Retail price, 42 cents.

II. NUMBERS APPLIED. A complete Arithmetic for all grades. By Andrew J. Rickoff. Retail price, 87 cents.

APPLETON'S PHYSICAL GEOGRAPHY.

Prepared on a new and original plan by a corps of scientific specialists, presenting an array of talent never before united in the making of a single text-book. The greatest work of the kind ever issued. Introduction price, $1.60.

Descriptive Catalogue, Special "Educational Notes," Circulars, Price-list, etc., mailed free on application.

D. APPLETON & COMPANY.

PUBLISHERS,

NEW YORK. BOSTON. CHICAGO. ATLANTA. SAN FRANCISCO.

DIXON'S

AMERICAN GRAPHITE PENCILS.

These superb pencils have proved to be so eminently superior, that they have come to be regarded the best in the market for school and business purposes. They are endorsed by the leading teachers of drawing, by artists, by accountants and by innumerable experts in the use of pencils throughout the United States. Teachers and scholars who have once used the Dixon pencils want no others. They are almost universally used in New England, New York State and Pennsylvania schools, and are being rapidly adopted in all parts of the country by school officers. Where the DIXON pencils are not familiar we shall be pleased to send samples free of charge to any school officer interested.

Our Complete Grade Stamps are as follows, viz:

	Similar grade to the European Stamp of
V V S—Very, very soft	(B B B)
V S—Very soft	(B B)
S—Soft	(B and No. 1.)
S M—Soft medium	(H B and No. 2.)
M B—Medium black	(F)
M—Medium	(H and No. 3.)
M H—Medium hard	(H H)
H—Hard	(H H H and No. 4.)
V H—Very hard	(H H H H and No. 5.)
V V H—Very, very hard	(H H H H H H)

JOS. DIXON CRUCIBLE CO.,

JERSEY CITY, N. J.

Drawing Books for Public Schools.

AMERICAN TEXT BOOKS OF ART EDUCATION.

PUBLISHED BY

THE PRANG EDUCATIONAL COMPANY.

BOSTON. NEW PORK. CHICAGO.

Teachers' Manuals for each grade, with full and explicit directions for each day's work. Every teacher can learn HOW TO TEACH DRAWING BY STUDYING THE PRANG MANUALS.

PRANG'S SHORTER COURSE IN DRAWING,

FOR SMALL TOWNS AND COUNTRY SCHOOLS.

Five Drawing Books and a Teacher's Manual.

Prang's Model for Teaching Drawing.—Especially designed for Teaching Drawing from objects in Primary and Grammar Schools.

Prang's Aids for Object Teaching.—Large Wall Charts, including illustrations of the Animal Kingdom, Ethnographical, Geographical, and Zoölogical Charts.

Prang's Natural History Series for Schools
Prang's Trades and Occupations.
Prang's School Pencils.
Prang's School Compasses.

For further particulars or Catalogue address

WM. S. MACK, Manager.
151 Wabash Ave., Chicago.

Springfield Business College.

Located at the Capital of the State, in the Y. M. C. A. Building, offers superior advantages to those who desire a thorough BUSINESS EDUCATION.

A complete course of Business Training in all departments in

BOOK-KEEPING,

COMMERCIAL ARITHMETIC,

PENMANSHIP,

COMMERCIAL PAPER,

COMMERCIAL LAW,

CIVIL GOVERNMENT.

ACTUAL BUSINESS PRACTICE

unsurpassed. All Common School Branches taught. Short Hand and Type Writing Department. Students have the advantage of Gymnasium, Bath Rooms and Free Public Library, all in the same building. We solicit correspondence with graduates of High Schools and with those who have attended common District Schools only.

For Catalogue apply to

BOGARDUS & CHICKEN, Proprietors.

Worthy the Attention of Every Teacher and School Officer.

Anderson's New U. S. History, **Anderson's General History.**
Hutchison's Physiology and Hygiene,
Hutchison's First Lessons in Physiology.
Thomson's Commercial Arithmetic,
Thomson's Practical Algebra.
Thomson's Complete Graded Arithmetic,
Thomson's First Lessons in Arithmetic.
English Classics, **Shakespeare Plays.**

AN ANCIENT SPELL.

BY

WILL CARLETON.

There they stood, like young globe-batters, with no salary enriched,
Waiting for the words momentous that the dextrous teacher pitched;
And he hurled the first one at them, like a nicely twisted ball,
While the catcher just behind them was the horny-handed wall;
And the first boy struck and missed it, and his face was deeply vexed,
As the teacher scowled a cyclone, and vociferated "next!"

The complete poem will be mailed free of charge to teachers and school officers who send us their address.

For the above works, Reed's Word Lessons, and any other texts in the Reed & Kellogg Language Lessons, address

CLARK & MAYNARD, Publishers,
New York and Chicago, or
J. D. WILLIAMS,
75 Wabash ave., Chicago.

Catalogue free.

2682

LIBRARY OF CONGRESS
0 019 749 609 5